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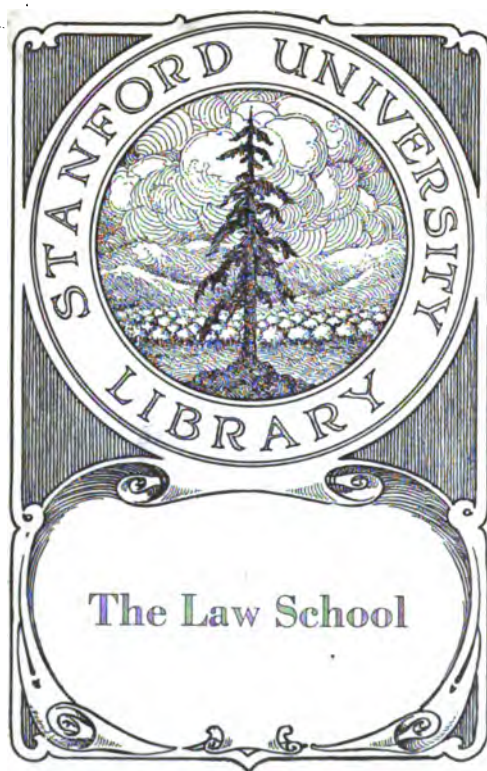
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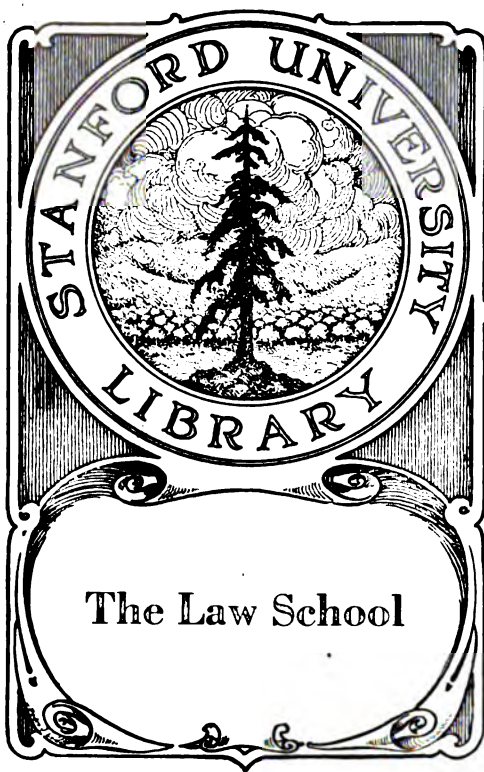
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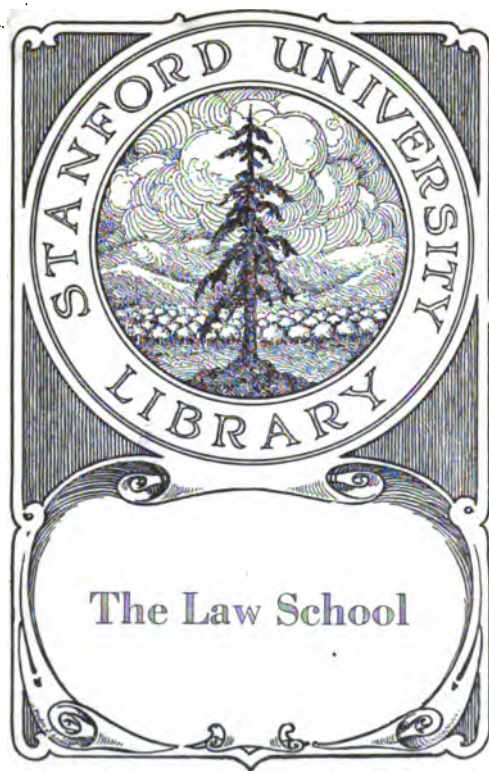
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ACTS

OF

THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY.

CHAP. 962.—AN ACT for the benefit of James Bartley, Sheriff of Greenup county.

1838.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue to James Bartley, Sheriff of Greenup county, or to his deputy, Robinson M. Beggs, a warrant on the Treasury for such sum as may be sufficient to cover the exonerations of sundry individuals from the payment of revenue tax in the county of Greenup, listed against them in the year 1838, as certified to said Auditor by the County Court of said county at their November term, 1838; said individuals, at the time they were so listed for taxation in said county, being residents of that part of Carter county, which formerly constituted a part of Greenup county, and therefore improperly listed for taxation in said county: provided, that nothing herein contained shall be construed to exempt said individuals from the payment of the revenue tax, for said year, as heretofore listed against them by the commissioners of the revenue in Carter county.

Approved December 17, 1838.

CHAP. 963.—AN ACT to authorize elections to be held in the Glasgow and Scottsville Turnpike road.

WHEREAS, doubts exist as to the proper time of holding the elections in the Glasgow and Scottsville Turnpike Road—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That hereafter the elections for a President and five Managers to the Glasgow and Scottsville Turnpike Road shall be holden in the town of Glasgow, on the first Monday in January in every year; and that it shall be the duty of the President and Managers to give ten days' notice, in writing, of such elections, put up at the court house

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doors in Glasgow and Scottville, and at least three other public places in the counties of Allen and Barren, previous to the holding said elections; and if, from any cause, the elections should not be held according to the provisions of this act, the former President and Managers may continue to hold their offices until another board shall be qualified.

SEC. 2. That all laws, coming within the purview of this act, are hereby repealed.

Approved December 17, 1838.

CHAP. 964.—AN ACT to change the place of voting in the Renear Precinct in Butler County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the Renear Precinct, in Butler county, be changed from the house of John Renear to the house now occupied by Elzaphan Hamilton, in the town of Rochester, at the mouth of Muddy river.

Approved December 17, 1838.

CHAP. 965.—AN ACT to change the names of Mary Ann Brumly and Abigail Ann Brumly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the names of Mary Ann Brumly and Abigail Brumly, illegitimate children of Henry Denny, be and the same are hereby changed to Mary Ann Denny and Abigail Ann Denny; and the said Mary Ann and Abigail Ann are hereby legitimated and made capable, in law, of inheriting estate, real, personal or mixed, from their father, the said Henry Denny, as fully and as perfectly as though they had been born in lawful wedlock.

Approved December 17, 1838.

CHAP. 966.—AN ACT for the benefit of John L. Cole of Barren County.

WHEREAS, on the twelfth day of February, eighteen hundred and thirty eight, there was an act passed by the General Assembly of the Commonwealth of Kentucky, changing the name of John Lawrence of Barren county, to that of John L. Cole—and, whereas, John Cole, of said county, recognized said John L. Cole as being his son—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said John L. Cole shall be and is hereby made able and capable to inherit any estate from the said John Cole, as completely and effectually, in all respects, as though the said John L. Cole had been born in lawful wedlock.

1838.

Approved December 17, 1838.

CHAP. 967.—AN ACT for the benefit of Mary Ann Sellers and Sarah E. Sellers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Mary Ann Sellers and Sarah Elizabeth Sellers, daughters of John S. Perry by his present wife, born before marriage, be and the same are hereby declared legitimate, and capable to take by descent or devise, to all intents and purposes, as if born in lawful wedlock; and that their names be changed to Mary Ann Perry and Sarah Elizabeth Perry.

Approved December 17, 1838.

CHAP. 968.—AN ACT to change the place of voting in the Mulliken Precinct, in Fleming County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, instead of holding the elections at the house of Robert Allen, in the Mulliken precinct in Fleming county, as now prescribed by law, that they shall, in future, be held at the store of Geo. G. Lowry, in the village of Centreville, under the same restrictions and regulations as were enacted in establishing said precinct at the house of James Mulliken.

Approved December 17, 1838.

CHAP. 969.—AN ACT for the benefit of Eliza Hancock.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of Eliza Hancock, of Casey county, be and the same is hereby changed to the name of Eliza Clark, and by that name she shall hereafter be called, styled and known.

Approved December 17, 1838.

1838.

CHAP. 970.—AN ACT for the benefit of the Sheriffs of Logan and Simpson Counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there be and is hereby allowed to William E. Curd, Sheriff of Logan county, the further time until the first day of May, eighteen hundred and thirty nine, to pay into the Treasury the sum of one thousand dollars, a part of the State revenue due from said county—on condition that the said Sheriff shall, on or before the third day of the next term of the General Court, pay into the Treasury of this State the balance of the revenue of said county: and, provided, that the securities of said Sheriff shall enter of record, in the Clerk's office of the County Court of said county, their assent to this indulgence: and, provided further, that said Sheriff shall, on or before the third day of the next term of the General Court, file a certificate of such assent with the Auditor of Public Accounts.

SEC. 2. That all the provisions of this act be extended to the Sheriff of Simpson county for the balance of the revenue due from him for the year eighteen hundred and thirty eight.

Approved December 17, 1838.

CHAP. 971.—AN ACT to allow an additional Constable to the County of Hardin.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county of Hardin be and the same is hereby allowed an additional Constable, to reside in the neighborhood of John Miller, Esq.; and the Hardin County Court is hereby required to elect such Constable.

Approved December 17, 1838.

CHAP. 972.—AN ACT allowing an additional Constable to the County of Marion.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional Constable be and is hereby allowed to the county of Marion; and that the County Court of said county shall locate said Constable in the neighborhood of Wilson Edmonson, a Justice of the Peace for said county.

Approved December 17, 1838.

CHAP. 973.—AN ACT to change the place of voting in the Quicksand and Crawford Precincts in Estill County, and Dennis Precinct in Washington County, and to establish an Election Precinct in Pulaski County.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the place of voting in the Quicksand precinct in Estill county, be and the same is hereby changed from the house of Nathan Gibbs to that of Andrew Pence, on Holly creek. And that the place of voting in the Crawford precinct, in said county, be changed from the house of Archibald Crawford to that of James McGuire, Jr., on the Middle Fork of the Kentucky river.

SEC. 2. That the voting place in Washington county, in the Dennis precinct, be changed from William Southerland's to Doctor Alford's.

SEC. 3. That an election precinct shall be and is hereby established in the county of Pulaski; the place of voting shall be at the old store house of Faris, Woods and Erwin, at the coal mines in said county.

Approved December 17, 1838.

CHAP. 974.—AN ACT for the benefit of the Sheriff of Lincoln County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of Lincoln county shall have until the next Court of Assessment, to be held for the sixty third Regiment of Kentucky militia, to return his delinquent lists of militia fines, which were placed in his hands for collection in the year 1838, and payable in the same year; and that the Paymaster of said Regiment shall suspend all coercive measures against said Sheriff until after the first Monday in April, 1839.

Approved December 17, 1838.

CHAP. 975.—AN ACT for the benefit of the Sheriff of Garrard County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there be allowed to the Sheriff of Garrard county until the annual meeting of the Court for the Assessment of fines in the year eighteen hundred and thirty nine, to return his delinquent list of muster fines in the twenty sixth Regiment of Kentucky militia, placed in his hands for collection for the year eighteen hundred and thirty eight.

Approved December 17, 1838.

1838.

CHAP. 976.—AN ACT to change the name of James Babcock.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of James Babcock, of the county of Bracken, be and the same is hereby changed to that of James Austin; by which name he shall henceforth be known and called.

Approved December 17, 1838.

CHAP. 977.—AN ACT to amend the charter of the city of Covington.

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the election for councilmen of said city shall be held on the first Saturday in January, in each year, instead of the first Saturday in April as heretofore. The board shall consist of eight members, two from each ward, who, or any of whom, shall vacate their offices by removal out of the ward, for which he or they shall have been elected, or shall be continually absent from the city, three months; that if, from any cause, there shall not be an election held in any, or all of the wards, on the first Saturday in January, in any year, the board, in office, shall immediately order an election to be held in the ward; or wards, where such failure shall have occurred.

SEC. 2. That in the collection of taxes of said city, the collector shall have the same power and authority, and proceed in the same manner that the several Sheriffs of this Commonwealth are authorized to proceed, and to distrain for the same in all cases, except for taxes on real estate, which taxes shall be collected as heretofore.

SEC. 3. That the President and Common Council of said city shall have full power and authority to require and compel the owners of property, fronting on any paved or McAdamized street, to grade and pave or gravel the side walks, when the proprietors of a majority of the number of feet of the property, fronting as aforesaid, shall signify their consent, by petition, in writing; and in the event of any owner failing or refusing to cause said improvements to be made, that the board may proceed and cause the said work to be done, and collect the expense thereof off the property, so fronting, in the same manner as taxes are herein collectable. That said board shall have power to establish a general system of wharfage on the Ohio and Licking rivers for said city, appoint a wharf master, pass ordinances regulating the same, and defining the duties and powers of said wharf master, and the mode of collecting the rates of wharfage.

When councilmen shall be elected & number, and how offices may be vacated.

Power of collector.

Council may compel owners of lots to pave streets, &c.

May establish a system of wharfage, &c.

SEC. 4. That all fines and penalties imposed within said city, for a violation of any regulation, ordinance, or law, thereof, shall be paid in the treasury, when collected, for the use of the corporation; and motions against any officer for failing to collect or pay over any fines assessed, as aforesaid, or failing to return executions for the same, may be made in the Mayor's court.

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Fines for breaches of by-laws, &c. appropriated.

SEC. 5. That all acts or parts of acts heretofore passed, which do or may conflict with the above amendment, be and the same are hereby repealed.

Repealing clause.

Approved December 17, 1838.

CHAP. 978.—AN ACT providing for a change of venue in a prosecution for felony against Joel (alias) Joseph Turnham, Jr.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the Jefferson Circuit Court, on the appearance of Joel Turnham, in discharge of his recognizance taken in said court, by reason of an indictment therein preferred against him, for murder, and upon his election and consent being entered upon the records of said county, to change, by order, the venue of said case to the Carroll Circuit Court.

May elect to be tried in Carroll.

SEC. 2. That when said order for the change of venue shall be made, it shall be the duty of the said Jefferson Circuit Court to require from the said Turnham a recognizance, in such penalty, and with such surety or sureties, as in the discretion of said court shall seem right, for his appearance at the said Carroll Circuit Court, on the first day of the term of said court next succeeding the date of said recognizance; and in like manner to recognize the witnesses in said case, for the Commonwealth, for their appearance in said Carroll Circuit Court; and when said change of venue shall have been ordered, as contemplated by this act, it shall be the duty of the Clerk of the Jefferson Circuit Court, forthwith, to transmit to the Clerk of the Carroll Circuit the indictment of said case, together with copies of the recognizances and orders made in said court; and when the same shall be filed with the Clerk of said Carroll Circuit Court, the case shall be placed for trial on the docket of said court.

Duty of Jefferson circuit court.

SEC. 3. The Carroll Circuit Court shall, when the venue is changed, and the papers filed in the Clerk's office of said court, as directed by this act, have as full power and jurisdiction to hear and determine the same, as though the alleged offence had been committed in Carroll county, and the indictment found in said Carroll Circuit Court; and the said court shall, and may make, such orders, and take such steps to procure the attendance of witnesses for the Commonwealth, and for the

Duty & powers of Carroll circuit court.

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defendant, as to said court shall seem right; and if it shall so turn out that the said Turnham is not put upon his trial in said court, by reason of any steps by him taken in said case, said court may require, and take from the said Turnham, a recognizance for his appearance again in the Jefferson Circuit Court, and order the venue in said case to be changed again to the said Jefferson Circuit Court, and may, also, recognize the witnesses for the Commonwealth to appear again in the said Jefferson Circuit Court; and on failure of said Turnham to enter into a recognizance for appearing again in the said Jefferson Circuit Court, as herein provided, it shall be the duty of said Carroll Circuit Court to order said Turnham to be committed to the jail of said Carroll county, and that being done, it shall be the duty of the Sheriff, of said Carroll county, forthwith, to cause said Turnham to be conveyed to the jail of Jefferson county, and said Turnham shall, thereafter, be tried in the said Jefferson Circuit Court for said alleged offence; and if the said Carroll Circuit Court shall, as herein provided, direct the change to the said Jefferson Circuit Court, it shall be the duty of the Clerk, of said Carroll Circuit Court, forthwith, to transmit the papers in said case, and such orders as may have been made, in said court, to the Clerk of the said Jefferson Circuit Court, who shall, on receipt thereof, place said case on the docket of his court for trial at the first term of said court next after the papers, in said case, shall have been received by said Clerk.

Duty of Sheriff of Carroll.

Venue may be changed back to Jefferson.

Approved December 18, 1838.

CHAP. 979.—AN ACT for the benefit of Richard C. Jett, the Sheriff of Daviess county, and the Sheriff of Hopkins county.

Preamble.

WHEREAS, it is represented to this General Assembly that Elijah McCreery, the late Sheriff of Daviess county, died in the beginning of September, eighteen hundred and thirty eight, and that his successor, Richard C. Jett, was not commissioned and qualified until near a month afterwards, and only a few days before the October term of the Daviess Circuit Court; his duties, in attending upon said court, prevented him for a still longer time from collecting the revenue tax in said county, whereby the time within which the said Jett was, by the existing laws, bound to collect and account for the same, became too short for that purpose—therefore,

Further time given Sheriff of Daviess to collect & pay over revenue.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said Richard C. Jett, Sheriff of Daviess county, be and he is hereby allowed until the first day of March, eighteen hundred and thirty nine, to collect and pay over the revenue of the county of Daviess, any law to the contrary notwithstanding: provided, the securities of

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said Jett shall, on or before the first day of January, eighteen hundred and thirty nine, in the office of the Clerk of the Daviess County Court, enter their assent, in writing, to the delay asked for: and, provided further, that a certified copy of such assent shall be filed in the Auditor's office, previous to the expiration of the time required by law for making motions against delinquent Sheriffs: and, provided, that for default of payment, on the first day of March next, judgment, by motion, without notice may be rendered against said Sheriff, and his securities at the next August term of the General Court, as in cases of motions against Sheriffs made at the January terms of said court.

Sec. 2. That the Auditor of Public Accounts, in his annual settlement with the Sheriff of Hopkins county, shall allow said Sheriff a credit for the sum of one hundred and eight dollars, being the amount of two certificates to John Cantly and Allen Williams for killing wolves, notwithstanding one of said certificates does not clearly set forth, that all of said wolves were killed in the county of Hopkins, and notwithstanding it appears from the other certificate that one of said wolves was killed in the county of Union, any law to the contrary notwithstanding.

Sheriff Hopkins allowed for wolf scalps.

Approved December 18, 1838.

CHAP. 980.—AN ACT to amend the law incorporating the town of Simpsonville, in Shelby county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there shall be elected annually, on the first Saturday in August, five Trustees for the town of Simpsonville; they shall be in office immediately after the election, and continue in office one year, and until their successors shall be elected. The said election shall be held at such place, in said town, and under the direction of such person or persons as shall be appointed for that purpose by the Trustees. All who are freeholders in said town, and all white male inhabitants, aged twenty one years and upwards, who have resided six months in said town, next preceding the election, shall be entitled to vote. The five persons who shall have the highest number of legal votes, shall be Trustees for the ensuing year, and shall be so returned and entered in the books of the Trustees. Ten days notice of an election shall be advertised at one or more public places in said town, by the chairman of the acting board, but an omission thereof shall not postpone or vitiate an election.

Election of Trustees.

SEC. 2. The Board of Trustees, at their first meeting, and before they act as such, shall severally take an oath, before some justice of the peace for the county of Shelby, well and

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truly to execute their duties, as Trustees, to the best of their skill and judgment, and without favor, affection, or partiality. A certificate of such oath shall be filed with the papers of the Trustees, and recorded by the clerk of the board.

Vacancies to
be filled.

SEC. 3. The Board of Trustees shall have power to fill all vacancies which may happen in their body; who, after taking the oath before described, shall possess all the powers of Trustees elected at the annual election.

A quorum,
clerk and treasurer.

SEC. 4. The Trustees of said town, a majority of whom shall constitute a board, shall have power to appoint their clerk and treasurer, removeable at pleasure. They shall prescribe their duties, and make such allowance for their respective services as they may deem reasonable.

By-laws.

SEC. 5. The Trustees shall have power to make such by-laws or ordinances, for the regulation of the streets and alleys in said town, as they may think proper; they shall have power, by their order, to declare what shall be considered as a nuisance, in said town, and to prevent the obstruction of the streets, and ordain a fine against any person or persons who shall cause either, not exceeding ten dollars.

Nuisances, &c.

Tax on shows.

SEC. 6. The Trustees shall have power to impose a tax on any person or persons who, for a compensation, shall exhibit any feat or show, in said town, not exceeding ten dollars per day.

Powers of the
Trustees.

SEC. 7. In addition to the special powers hereby granted them, they shall have full power and authority to make and ordain any by-laws or ordinances for the better regulation, and general police of the town, which shall be conducive to the good order, regularity, safety, health, and quietness; and to affix fines and penalties, not exceeding ten dollars, for every breach thereof; and all fines, penalties or forfeitures shall be recovered before a justice of the peace for the county of Shelby, in the name of the Trustees of the town of Simpsonville, which may be appealed from to the County Court of Shelby; and all fines, penalties and forfeitures which may be collected, shall be paid into the hands of the town treasurer, to be applied to the use of the town.

Fines.

Treasurer to
give bond.

SEC. 8. The town treasurer shall give bond and security in a sum double the probable amount to be put into his hands, and such bond shall be given and made payable to the Trustees of the town of Simpsonville and their successors; and for every defalcation in said treasurer, the said bond may be put in suit, and the same proceedings shall be had against him as against defaulting collectors, either of the public revenue or county levies.

Present Trustees to continue
in office.

SEC. 9. The Trustees, now in office in said town, shall be governed by this act; and the by-laws and ordinances now in force in said town, shall continue in force until new ones shall be passed under this act.

Approved December 19, 1838.

CHAP. 981.—AN ACT for the benefit of the estate of David Campbell.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the administrator of David Campbell to file a bill in the Green Circuit Court, against the heirs of said Campbell, and his distributees, and the creditors whose debts are unpaid, and allege that the personal estate and slaves are exhausted and the debts are not paid, and that it would be to the interest of the heirs to have real estate sold to pay the residue. And the court shall cause the accounts of the administrator to be stated by a Commissioner, and decree a sale and conveyance of so much of the real estate, as will pay the balance of the debts of said Campbell, and cause the proceeds to be applied to the payment of the debts; and in the order of sale, shall fix the credits and the minimum price at which the land shall be sold, and in all things proceed on equitable principles, to guard and enforce the rights of the parties: Provided, that in selling any lot or tract which may be necessary to pay the debts, the whole tract or lot may be sold, and the surplus divided, should the court deem it to the advantage of the heirs.

Approved December 19, 1838.

CHAP. 982.—AN ACT for the benefit of John W. Simpson.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the forfeiture, for non payment of taxes, of three hundred acres of land, in the county of Livingston, at the mouth of Goose creek, listed in the name of Henry Bedinger, shall enure to the benefit of John W. Simpson, he having purchased the land, and listed and paid the taxes thereon.

Approved December 19, 1838.

CHAP. 983.—AN ACT to change the January term of the General Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, the General Court shall hold a term, commencing on the first Monday in the month of February, in each year, instead of the month of January, as now provided for by law, and all process heretofore issued returnable to the next January term of said Court, shall be returned to the next February term thereof. Term changed.

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Motion.

SEC. 2. That motions in the name, or on behalf of the Commonwealth, against sheriffs, clerks, or other public officers, shall be made on the fifteenth day of said term, at which time the court shall adjudicate upon the same, without notice to the parties to be affected by said judgment. And if, from any cause, the court shall deem it expedient to continue any such motion till the succeeding term, the same shall stand for trial on the fifteenth day of such succeeding term, and shall be adjudicated upon without notice to the parties to be affected thereby, in the same manner as if such motion had not been continued.

Approved January 4, 1839.

CHAP. 984.—AN ACT authorizing the Auditor of Public Accounts to receive the delinquent lists of the Sheriffs of Jefferson, Nicholas, Monroe, Barren and Clarke counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, directed to receive from the Sheriffs of Jefferson, Nicholas, Monroe, Barren and Clarke counties, their delinquent lists for the year eighteen hundred and thirty eight, and credit them by the same, in the same manner, and under the same rules and regulations, as though they had been presented in due time.

Approved January 4, 1839.

CHAP. 985.—AN ACT for the benefit of Lucy Jacobs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract, heretofore existing between Lucy Jacobs and Martin Jacobs, be, and the same is hereby, dissolved, so far as relates to the said Lucy, and that hereafter she be called, and known by the name of Lucy Searcy.

Approved January 5, 1839.

CHAP. 986.—AN ACT for the benefit of William Butler, Clerk of the Monroe County Court.

Further time
given to pay
taxes, &c.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That William Butler, Clerk of the Monroe County Court, be allowed further time until the first day of Decem-

ber, eighteen hundred and thirty nine, to pay into the Public Treasury the taxes on seals and deeds, and all other money collected by him, for revenue purposes, since the fourth Monday of November, eighteen hundred and thirty seven; provided his securities, in his official bond as clerk, do, on or before the third day of the next term of the General Court, by writing, under their hands, agree to the indulgence herein extended to him; and, provided, that the said County Court may, at their next November term, certify said Clerk's list of taxes aforesaid.

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Provide.

Approved January 5, 1839.

CHAP. 987.—AN ACT to incorporate the Hopkinsville Female Academy.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky that a number of the citizens of Hopkinsville, in Christian county, for the purpose of contributing to female education, have purchased two acres of land in the town of Hopkinsville, designated by lots number sixteen, seventeen, twenty four and twenty five, in Woods' addition to said town, for the location of a Female Academy.

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Strother J. Hawkins, Augustine Webber, Zachariah Glass, Orville Collins, Joseph B. Crockett, John Buckner, and F. C. Sharp, are hereby constituted a body politic and corporate, to be known by the name of the Trustees of the Hopkinsville Female Academy, and by that name shall have perpetual succession, and a common seal, with power to change the same at pleasure, and by said name may sue and be sued, implead and be impleaded, in any court of law or equity; and shall be capable in law to purchase and receive, and hold, to them and their successors, any lands, tenements, moneys, goods and chattels of any kind whatever, which shall be purchased, given, granted, or devised, for the use of said Academy, and may sell and dispose of the same in any manner which may seem most conducive to the interest of said institution; provided that said corporation shall not, at any time, hold real and personal property of greater value than one hundred thousand dollars. The Trustees shall have power, from time to time, to establish such by-laws, rules and ordinances, not inconsistent with the constitution and laws of the State, as they shall deem necessary for the government of said Academy. A majority of all the Trustees shall concur in the election of a President, Treasurer and Clerk, and of Professors and Tutors to said institution; and upon the disqualification, death, resignation, or removal from office of any of the Trustees, Professors, Tutors or Officers of said Academy, the Board of

Corporators names. Their powers.

May pass by-laws.

President, Treasurer, Professors, &c., to be elected, and vacancies filled.

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Majority of
Trustees to con-
stitute a quo-
rum, &c.

Trustees shall, by election or appointment, fill the vacancy. The President, at the request of any three of the Board, may call a meeting of the Trustees, when cases of emergency require it. A majority of the Trustees elected shall constitute a quorum to do business, and may decide any question, resolution, or appointment, not otherwise provided in this act, but in all contracts for the alienation or purchase of property a majority of the Trustees elected must concur. The clerk and all officers shall be subject to the direction of the Board, and may be removed by a majority concurring.

Title to lots
vested in Trus-
tees.

SEC. 2. That the right and title of the two acres of land, before designated, shall be, and the same is hereby, vested in said Trustees, and their successors in office, forever, for the use of the stockholders in said institution, with power to enclose an alley that separates the two acres of land, for the purpose of improving said grounds.

When & how
elections for
Trustees to be
held.

SEC. 3. That an election for Trustees to said institution, shall be annually held, and it shall be the duty of the Board of Trustees to appoint the time and place of holding said elections, at which elections, two of the Trustees shall preside. The Trustees elected shall continue in office until their successors shall be duly elected. Upon a failure of the Trustees to hold an election at any time, the persons holding a majority of the stock in said institution, concurring, may hold an election for Trustees. No person shall be eligible to the appointment of Trustee, unless he was the owner of one share of stock in said institution at least six months previous to said election. The owner thereof shall be entitled to one vote for every ten dollars worth of stock he may hold, and may vote by himself or proxy, upon all questions relating to said institution. The stock thereof may be negotiated and assigned, upon the books of the Trustees, and the assignees entitled to all the rights and privileges of stockholders.

Stock assigna-
ble.

Approved January 5, 1839.

CHAP. 988.—AN ACT to allow additional Justices of the Peace, and Constables, to certain Counties.

Madison.
Whitley.
Caldwell.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, there shall be allowed to the following counties, the several Justices of the Peace, and Constables, hereafter named, in addition to the number now allowed by law; viz: To the county of Madison, two Justices and one Constable; to the county of Whitley, two Justices and one Constable; to the county of Caldwell, one Justice, who may be appointed in the town of Princeton, and one Constable, who may reside in the neighborhood of J. C. Lang-

ton, Esq.; to the county of Logan, one Justice, who may reside in the neighborhood of James Sawyers; to the county of Clinton, one Constable, who shall reside in the neighborhood of William Davis; to the county of Adair, one Constable, who shall reside within one quarter of a mile of the court house in the town of Columbia; and to the county of Nelson, one Justice.

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Logan.
Clinton.
Adair.

Nelson.

Approved January 5, 1839.

CHAP. 989.—AN ACT for the benefit of James L. Todd, a Lunatic.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James McKee and Melvin McKee, Committee for James L. Todd (a lunatic) be, and they are hereby, authorized to make sale, and dispose of any estate belonging to the said James L. Todd, whether real or personal, and they are hereby authorized to convey any such real estate which they may sell, warranting only against the title of said Todd: provided, that the said James and Melvin McKee shall first, in the Montgomery County Court, execute bond with good security to account for the proceeds of all sales which may be made by them under this act, in the penalty of one thousand dollars.

Approved January 5, 1839.

CHAP. 990.—AN ACT to legalize the proceedings of the 74th Regiment of Kentucky Militia, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the proceedings of the seventy fourth Regiment of Kentucky Militia, on the first Monday in November, in the year eighteen hundred and thirty seven, for the purpose of assessing fines, shall be deemed and held in law as valid as if said court had been held on the day fixed by law for that purpose; and that all persons fined by said Court of Assessment shall have the privilege of appealing to the next Court of Appeals for said regiment, as fully as if said Court of Assessment had been held on the day fixed by law.

SEC. 2. That the Sheriff of Casey County shall be allowed until the first Monday of November, eighteen hundred and thirty nine, to collect and pay over said fines.

Approved January 5, 1839.

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CHAP. 991.—AN ACT authorizing the Register to issue a patent in the name of Barnabas Wing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so soon as a copy of an original survey for four hundred acres of land, made in the year eighteen hundred and six, in the name of Barnabas Wing, shall be filed with the Register of the Land Office, accompanied by the affidavit of Rezin R. Rice that the original survey, with the assignment thereon, is lost, it shall be the duty of the Register to receive and file said plat and certificate, and to issue a patent thereon to said Barnabas Wing, as though the original plat and certificate were filed: provided however, that nothing herein contained shall be construed to affect any other valid or better claim to said land in law or equity.

Approved January 5, 1839.

CHAP. 992.—AN ACT to amend the Charter of the City of Maysville.

Council authorized to borrow money.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Board of Councilmen, of the City of Maysville, be, and they are hereby, authorized and empowered to borrow money on the credit of said corporation, and to pledge the corporation property for the repayment of the same, or to pledge any part of the franchises or future taxes of the city for the payment of the principal or interest on such loan or loans to the city.

Bonds of city to be executed.

SEC. 2. That the said Board of Councilmen be and they are hereby empowered to issue the bonds of the city as the evidence of said loans, or execute any such other written evidence of the debt, bearing such interest as the said council, in their discretion, may agree to pay; which said scrip, or written evidence of debt, shall be binding and obligatory upon the city, and shall have a lien upon the city property for its payment.

Not more than \$50,000 to be borrowed.

SEC. 3. That the said city shall be limited to, and shall not borrow more than, the sum of fifty thousand dollars, in addition to the sum of fifty thousand dollars which, by their charter, they are authorized to borrow.

Approved January 5, 1839.

CHAP. 993.—AN ACT to have the line run and marked between the counties of Morgan and Floyd.

WHEREAS, doubts exist as to where the line runs between the counties of Morgan and Floyd at some particular places: for remedy whereof,

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Courts of the counties aforesaid, a majority of the members thereof being present, may each appoint a Commissioner, who shall employ the necessary number of chain carriers, and proceed to run all of said line that is not plainly marked and run.

SEC. 2. That said Commissioners shall make out two fair plats of said survey, and cause one to be recorded in each of said counties, which, when thus run and recorded, shall ever after be the true line between said counties.

SEC. 3. That said counties shall pay the expenses of running said line in equal proportions; and for that purpose the County Courts thereof are hereby authorized, at their next Court of Claims after the services are rendered, to make an order for the reasonable compensation of said Commissioners and chain carriers out of the county levy.

Approved January 5, 1839.

CHAP. 994.—AN ACT for the benefit of William Grass.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract, heretofore existing between William Grass and Elizabeth Grass, be dissolved, so far as relates to the said William Grass, and he is hereby restored to all the rights and privileges of an unmarried man.

Approved January 5, 1839.

CHAP. 995.—AN ACT for the benefit of Margaret Holsclaw.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Margaret Holsclaw and her husband, Joshua Holsclaw, be, and the same is forever, dissolved, so far as it relates to the said Margaret Holsclaw, and she is hereby restored to all the rights and privileges of an unmarried woman.

Approved January 5, 1839.

CHAP. 996.—AN ACT to change the name of Josiah Cusick, Margaret Cusick, and Samuel Cusick.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Josiah Cusick, Margaret Cusick, and

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Samuel Cusick, children of William Teer and Catharine Teer, his wife, late Catharine Cusick, born before the intermarriage of their father and mother, be forever hereafter called and known by the name of Josiah Teer, Margarette Teer, and Samuel Teer.

Approved January 5, 1839.

CHAP. 997.—AN ACT for the benefit of Anne Dix and Elizabeth Maria Dix.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Anne Dix, widow of the late Clarendon Dix, be restored to her maiden name of Anne Byers, and that the name of her infant daughter be changed from that of Elizabeth Maria Dix to that of Elizabeth Maria Byers.

Approved January 5, 1839.

CHAP. 998.—AN ACT for the benefit of the Sheriff of Shelby County.

WHEREAS, it is represented to the present General Assembly that the Clerk of the Shelby County Court, in copying the Commissioner's book of tax returned to his office for the year eighteen hundred and thirty eight, made a mistake in carrying out the total value of the property of John Wakefield, listed for said year, by stating the same in the copy furnished the Auditor, at seventy eight thousand eight hundred and fifty dollars, when the amount, as carried out by the Commissioner, is only seven thousand four hundred dollars; and whereas, the said Clerk, in the same Commissioner's book, made a mistake in the copy furnished the Auditor by carrying out the value of property listed by Samuel Graves, at thirty nine thousand four hundred and sixty dollars, when the amount carried out by the Commissioner is only nine thousand four hundred and sixty dollars, which is the true value of the property listed for taxation, for the year eighteen hundred and thirty eight, by said Wakefield and Graves—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, directed to credit the Sheriff of Shelby County, in his settlement with him for the revenue tax of said county for the year eighteen hundred and thirty eight, with the sum of one hundred and one dollars forty five cents.

Approved January 7, 1839.

CHAP. 999.—AN ACT for the benefit of Nancy L. M'Culloch.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Nancy L. M'Culloch and her husband, Cyrus W. M'Culloch, be and the same is forever dissolved, so far as it relates to the said Nancy L. M'Culloch, and she is hereby restored to all the rights and privileges of unmarried woman, and to her maiden name of Nancy L. Elliott.

Approved January 7, 1839.

CHAP. 1000.—AN ACT allowing an additional Justice of the Peace to Butler County.

WHEREAS, a large number of the citizens of Butler county, residing on the north side of Green River, labor under great inconvenience for want of a Justice of the Peace residing in said part of the county—wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional Justice of the Peace be allowed to the county of Butler, to be commissioned and appointed according to law.

Approved January 7, 1839.

CHAP. 1001.—AN ACT for the benefit of the Clerks of this Commonwealth.

WHEREAS, it is represented to the General Assembly that, owing to the late period at which the acts of the last session of the Legislature were distributed, many of the Clerks of the Circuit and County Courts, in this Commonwealth, have made payments to Jurors, and paid over part of the revenue collected by them, as directed by the law as it existed previous to the passage of the act of the last session, providing for the appointment of trustees of the jury fund, in the several counties of this State, which payments were made after the passage of the above named act, and before the acts of the last session came to the hands of such Clerks: **AND WHEREAS**, the Auditor of Public Accounts does not feel authorized to allow any such Clerk a credit for any payment so made, in his annual settlement, nor to refund any money so paid, where settlement has heretofore been made, and the money paid over as directed by the act of the last session, providing for the appointment of trustees of the jury fund—for remedy whereof,

Preamble.

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Auditor to allow Clerks credit for money paid Trustees of the Jury Fund, on certain terms and conditions.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Auditor of Public Accounts be, and he is hereby directed to allow to the Clerks of the County and Circuit Courts of this Commonwealth, in their annual settlements at his office, a credit for money paid out in pursuance of the laws of this Commonwealth, as they existed previous to the passage of the above recited act of the last session, in the same manner, and under the same rules and regulations, that they would have done had said act not have passed: provided, that such payments was made on or before the first day of August, eighteen hundred and thirty eight; and where any such Clerk has settled with the Auditor, and paid into the Treasury, or otherwise, any money, in pursuance of law, which he would have been entitled to a credit for, if said act of last session had not been passed, and for which he has received no credit, the Auditor is hereby directed to issue his warrant on the Treasury for the same, in favor of such Clerk.

Clerk Union allowed further time to settle.

SEC. 2. That the Clerk of the County and Circuit Courts of Union county be, and he is hereby allowed until the first day of August term next, of the General Court, to settle his accounts with the Auditor of Public Accounts.

Approved January 7, 1839,

CHAP. 1002.—AN ACT for the benefit of the heirs and representatives of Thomas Jasper, deceased.

Bill in chancery may be filed by administrators, and for what purpose.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for William Denham, administrator, and Elizabeth Jasper, administratrix, of Thomas Jasper, deceased, to file their bill in chancery, in the Pulaski Circuit Court, making the heirs of said deceased defendants thereto, setting forth therein, that the personal estate (except two negro girl slaves) belonging to the estate of said deceased, is insufficient to pay his debts, and, also, to set out the amount of said personal estate, and the manner in which it has been distributed, and the amount of debts remaining unpaid, and, also, to set forth and show the quantity of land that has descended to the heirs of said decedent, and, also, to alledge that it will be to the advantage and interest of said heirs to reserve said negroes and sell the land that has descended, or so much thereof as will be sufficient to pay and satisfy the debts aforesaid.

Guardian, *ad litem*, & commissioner to be appointed, and for what purpose.

SEC. 2. That upon a return of process executed, said court shall appoint a guardian, *ad litem*, for the infant heirs of said decedent, and, also, a commissioner to state the accounts of said administrator and administratrix, and to report the amount of the outstanding debts, and the value of the land

proposed to be sold, and the situation of the other estate of said deceased; and if the Chancellor shall be of opinion that it would advance the interest of said heirs, to reserve said two slaves, and sell all or any part of the land aforesaid, for the purpose of the payment of said debts, he may, and is hereby authorized to decree a sale thereof, on such terms and conditions as to said court shall seem just and equitable, and may appoint the complainants to execute said decree, by a sale and conveyance of said land to the purchaser or purchasers.

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Court may
decree sale.

SEC. 3. That said court, upon rendering such decree, shall require bond, with approved security or securities, from said complainants, in such penalty as said court may fix, with condition that they will well and truly apply the proceeds of the sale of said land to the payment of the outstanding debts of said Thomas Jasper, deceased, and make a full and true report thereof to said court.

Bond to be
given by ad-
ministrators.

SEC. 4. That said court may render a decree for the sale aforesaid, at the first term after the filing of said bill, and the filing of answers and report aforesaid, provided said court shall consider it necessary and prudent.

Decree may
be rendered at
first term.

Approved January 7, 1837.

CHAP. 1003.—AN ACT for the benefit of the infant heirs of Henry Crittenden, deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for David R. Murray and Ann Maria, his wife, late Ann Maria Crittenden, widow and executrix of Henry Crittenden, deceased, to file a bill in chancery, in the proper court, against the heirs of the said Crittenden, and set out the estate of which the said Crittenden died seized and possessed, both real, personal, and mixed, and the debts against the same, with the will of the said Crittenden, and that the said Ann Maria, his executrix, has sold certain real estate for the payment of the debts, and retained the slaves for her use and that of her children, and that it was to their interest that such sale should have been made; and it shall be lawful for the court, if it shall appear to have been necessary to sell the same, for the payment of debts, and that it was to the interest of the heirs to have the land sold, and the slaves retained, to decree a confirmation of the sale, and a conveyance from the heirs to the said Ann Maria, to enable her and her husband to convey said property to the purchaser.

Approved January 7, 1839.

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CHAP. 1004.—AN ACT for the benefit of George Knox.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sum of fifteen dollars be, and the same is hereby appropriated to George Knox, as compensation to him for fifteen days' labor, in taking in the taxable property in the middle district in Bath county, under the laws in force when he was appointed a Commissioner; but which lists, before the return of his book, by law, were not in proper form, or received by the court; and the Auditor is hereby directed to issue is his warrant, in favor of said Knox, for said sum, which the Treasurer is hereby directed to pay out of any money in the treasury not otherwise appropriated.

Approved January 7, 1839.

CHAP. 1005.—AN ACT to run and mark the line dividing the counties of Knox and Whitley.

**Commission-
ers appointed.** SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Benjamin Tuggle, of the county of Knox, and Joseph Gillis, of the county of Whitley, be, and they are hereby appointed Commissioners to run and mark the boundary line between the counties of Knox and Whitley.

**Commission-
ers to take an
oath.** SEC. 2. That said Commissioners, before entering upon the duties hereby assigned, shall take an oath, before some Justice of the Peace, faithfully to discharge the duties hereby imposed.

**Where to be-
gin.** SEC. 3. That said Commissioners, in running said line, shall begin at the point and run the courses according to the calls of an act establishing the county of Whitley, approved January seventeen, eighteen hundred and eighteen, so far as said calls are common to both counties; and that said Commissioners shall make out two copies of their report, with the courses and distances of said line appended thereto, and present one to each of the County Courts of Knox and Whitley, whose duty it shall be to cause the same to be recorded.

**Compensation
to Commission-
ers, &c.** SEC. 4. That the Commissioners aforesaid shall receive, as compensation, the same fees now allowed, by law, to surveyors for similar services; that they shall employ two Chainmen and a Marker, whose compensation shall be the same as now fixed by law in other cases; and that the County Courts of Knox and Whitley shall each, at their respective court of claims next ensuing said service, levy, for the benefit of said Commissioners, Chainmen, and Marker, one half of what they may be severally entitled to receive.

Approved January 7, 1839.

CHAP. 1006.—AN ACT changing the place of voting in the Sugartree Run Precinct, in Breckinridge county.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the Sugartree Run Precinct, in Breckinridge county, be changed from the warehouse of Z. S. Witt to the house of Leonard Cart.

Approved January 7, 1839.

CHAP. 1007.—AN ACT to release from forfeiture, and remit the taxes on certain lands belonging to the estate of George Morris, deceased.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Charles Buck, formerly a resident of this State, became a non-resident, and listed with the Auditor, for taxation, certain lands in Henderson and company's grant, in Henderson county, Kentucky, which lands were designated and described in his said list as follows: number forty five, one thousand two hundred and seventy five acres; number twenty seven, four hundred and fifty acres; number fifty three, two thousand and fifty acres; number fourteen, one thousand one hundred and fifty acres; number thirty five, one thousand three hundred and fifty acres; number thirty, two hundred acres; number sixty two, two thousand two hundred and fifty acres; number fifty seven, one thousand six hundred acres; No. II, three thousand nine hundred and fifty acres; No. II, two hundred acres, as appears by the Auditor's books. And it being further represented, that the said Buck departed this life without paying the taxes on said land, which descended to his heirs, all of whom were residents of this State, and some of whom were infants; by reason of which failure to pay the taxes, on the part of said Charles Buck, said land was stricken off to the State, and forfeited as his property. And it being further represented, that George Morris, having become the purchaser of all said lands from the heirs of said Buck, did, in the year eighteen hundred and thirty six, redeem the same from forfeiture, but died so shortly afterwards that he did not obtain the certificates and vouchers which were necessary to enable the Auditor to strike said lands from his books, in order that they might be listed for taxation, with the proper county Commissioner, whereby the said lands still remained on the Auditor's books. And it being further represented, that, after the purchase of the said lands by the said Morris, he sold a large proportion of the same to various citizens of Henderson county, who have regularly listed them for taxation with the county

Preamble.

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Commissioner; and that after his death, the residue of said lands descended to his heir, an infant, whose guardian listed said lands with the county Commissioner, of Christian county, and paid the taxes thereon for the year eighteen hundred and thirty eight, but omitted to pay them in the year eighteen hundred and thirty seven. And it being further represented, that, notwithstanding the facts above mentioned, the whole of the lands aforesaid were again advertised by the Auditor as the property of Charles Buck, and stricken off by him to the State as being forfeited a second time for non-payment of taxes—therefore,

Lands released from forfeiture.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all the interest of the said last mentioned forfeiture be remitted, and the estate of the said Morris be released from the payment thereof.

Lands to be stricken from the Auditor's books, on payment of tax, &c.

SEC. 2. That when the guardian of the infant heir of said George Morris shall pay to the Auditor, for the year eighteen hundred and thirty seven, the same amount of taxes which he paid on the residue of said lands, for the year eighteen hundred and thirty eight, together with the cost consequent upon said forfeiture, the forfeiture of the whole shall be, and the same is hereby released; and the Auditor shall be, and he is hereby authorized and required to strike from his books all the lands described in the preamble hereto.

Approved January 7, 1839.

CHAP. 1008.—AN ACT for the benefit of William Kercheval.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the County Court of Logan county, at their January or February term next, to cause to be levied the sum of seventy five dollars, to be applied to the use and benefit of William Kercheval of said county.

SEC. 2. That the Sheriff of Logan county is hereby authorized to pay the above sum of seventy five dollars, or any portion thereof, to the said Kercheval, out of any funds unappropriated in his hands; and the benefit of this act shall apply to the said William Kercheval so long as he shall live: provided, the County Court shall concur in the opinion that the above named William Kercheval is unable to provide the means of his support.

Approved January 7, 1839.

CHAP. 1009.—AN ACT for the benefit of James Henson and George W. McLeod.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James Henson be, and he is

hereby authorized to change the State road leading from Waidsboro to Eddyville, where it passes through the land of said Henson: provided, that he shall not change it more than twenty poles from where it now runs: and, provided, that said Henson shall open said road at his own expense, and shall run it on as good ground as it now runs.

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SEC. 2. That George W. McLeod be and he is hereby authorized to change said road where it passes through his land: provided, that said McLeod shall first open said road at his own expense, and shall run it on as good ground as it now runs, and shall in nowise add to the length of said road.

Approved January 7, 1839.

CHAP. 1010.—AN ACT to change the place of voting in the Floydsburg Precinct, in Oldham county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in Floydsburg, in Oldham county, shall be and the same is hereby changed from the house of Silas Ashley to that of Anderson D. Crow in said town, and all elections hereafter to be held at said precinct, shall be governed by the laws now in force upon the subject of elections.

Approved January 7, 1839.

CHAP. 1011.—AN ACT to amend an act, entitled, an act to establish the town of Petersburg, in Boone county, approved January 17, 1818.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Hugh M. Allen, William Snyder, William H. Chapin, William Fisher and Benjamin Emley, Trustees of the town of Petersburg, and their successors shall, on the first Monday in April, eighteen hundred and thirty nine, and in each year thereafter, open a poll for the election of five Trustees for said town.

When Trustees to be elected.

SEC. 2. That all the free white male inhabitants of said town, of the age of twenty one years and upwards, shall meet at such time and place as may be designated by the Trustees, in said town, and choose, by vote, *viva voce*, five Trustees, to serve for one year, and until their successors shall be duly elected.

How, and by whom elected.

SEC. 3. That the said Trustees shall appoint a Clerk, to continue in office for one year, whose duty it shall be to keep a fair record of the proceedings of the Board of Trustees, and to give public notice, by an advertisement, in said town,

Clerk to be appointed, and his duties.

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at least ten days previous to any election for Trustees; and he shall, with any two of the Trustees, conduct elections, and proclaim the persons elected, and make record of the same.

Trustees may
pass by-laws.

SEC. 4. That the Trustees herein above mentioned, and their successors in office, (a majority concurring,) shall have full power to pass such by-laws, as they may, from time to time, think proper, for the government of said town, provided they be not contrary to the laws and constitution of this State.

How taxes
may be levied
and collected,
and how ap-
propriated.

SEC. 5. That the said Trustees, a majority of them concurring, shall have power to levy, and have collected, a tax on the real and personal property and tithes, in said town, annually: provided, that it shall not exceed fifty cents, annually, on each tithe, and one dollar on each one hundred dollars worth of property; which tax is to be appropriated and laid out by the said Trustees for the improvement of said town.

Assessor to
be appointed,
and his duties.

And the said Trustees shall appoint an assessor, annually, who shall be sworn faithfully to discharge his duty, who shall make out and furnish to the Trustees, at such times as they may appoint, lists of the property, real and personal, of each individual holding property in said town, together with the value thereof; also, a list of the real property, in said town, belonging to persons not living therein, and, also, the tithes in said town; also, that the said Trustees shall have power to ap-

Collector to
be appointed,
and his duties.

point a collector, annually, whose duty it shall be to collect the taxes assessed, who shall give bond and security, approved by the Trustees, for the faithful performance of his duty, and he shall receive such compensation for his services as they shall allow; and the said collector shall have power to make distress and sale, if necessary, as is now allowed by law in regard to Sheriffs collecting the revenue of this commonwealth; and the said Trustees shall, also, appoint a treasurer, who shall take an oath for the faithful discharge of his duty, and give bond with security for the payment of the money to the order of the Trustees; in default of which, the said Trustees shall, upon giving ten days notice, recover judgment against him, and his securities, in any court having jurisdiction.

Treasurer to
be appointed,
to take an oath
and give bond.

How moneys
to be appropri-
ated; officers to
take an oath.

SEC. 6. That all the moneys collected by virtue of this act, shall be solely appropriated for the benefit of said town and its officers, and that the said Trustees and Clerk, before entering upon their official services, shall take an oath for the faithful performance of the respective duties enjoined upon them by this act, which oaths shall be recorded by the Clerk.

May impose
fines for certain
offences.

SEC. 7. That the Trustees shall have power to sue for, and recover a fine, not to exceed three dollars, for shooting a gun or pistol within the limits of said town; likewise, they shall have power to recover a fine, not exceeding five dollars, for showing a Stud Horse or a Jack within said town.

Repealing
clause.

SEC. 8. That so much of the seventh section of an act, entitled, an act to establish the town of Petersburg, approved January seventeenth, eighteen hundred and eighteen, respect-

ing the appointment and powers of Trustees, together with the eighth section of said act, be and the same are hereby repealed.

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Approved January 7, 1839.

CHAP. 1012.—AN ACT for the benefit of Thomas Hite.

WHEREAS, Thomas Hite, a citizen of the county of Nelson, listed certain real estate belonging to him in the city of Louisville, with the commissioner of the revenue for said county, for the year eighteen hundred and thirty seven, and paid the amount of the tax thereon to the collector of said county: and, whereas, the agent of said Thomas Hite listed the same property in the county of Jefferson, and paid the revenue tax thereon, amounting to sixty eight dollars and seventy five cents, for the year eighteen hundred and thirty seven, to the collector in said county—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be and he is hereby authorized and directed, upon the application of Thomas Hite, to draw his warrant upon the Treasurer, in favor of the said Thomas Hite, for the sum of sixty eight dollars and seventy five cents, to be paid out of any money in the Treasury not otherwise appropriated.

Approved January 7, 1839.

CHAP. 1013.—AN ACT to establish an additional election precinct in Ohio county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional election precinct, be and the same is hereby established at the house of John G. Brown, at Lock and Dam No. 3, on Green river in said county, and all elections to be held, at said precinct, shall be governed by the laws now in force upon the subject of elections.

Approved January 7, 1839.

CHAP. 1014.—AN ACT for the benefit of the Clerk of Washington County Court.

WHEREAS, it is represented to the present General Assembly that William B. Booker, Clerk of the Washington County

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Court, failed, at his October or November terms last, to cause the deeds, seals, and other things, upon which taxes received by him, during the year eighteen hundred and thirty eight, to be counted and certified by the senior Justice of said court, and the county attorney, as required by law; and, whereas, the Auditor of Public Accounts, refuses to receive the list forwarded by him—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts shall be and he is hereby required to receive of said Booker his list of taxes, certified as a correct list, and charge the said Booker, as Clerk as aforesaid, with the same, any law to the contrary notwithstanding.

Approved January 7, 1839.

CHAP. 1015.—AN ACT for the benefit of James M. Hanson.

WHEREAS, James M. Hanson, a citizen of Virginia, attended three terms of the Floyd Circuit Court, in this State, as a witness in behalf of the Commonwealth, last named, against John Clark on a charge of felony, and the said Hanson never having received mileage compensation—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue a warrant on the Treasurer, in favor of said Hanson, for the sum of twenty seven dollars and sixty cents, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved January 7, 1839.

CHAP. 1016.—AN ACT to complete the State road from Mountsterling, by way of Prestonsburg, to the Virginia line.

Board Internal Improvement directed to cause gates to be erected, and to appoint gate keepers.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Board of Internal Improvement be and they are hereby authorized and instructed to erect two gates across the road from Mountsterling to the Virginia State line, by way of Prestonsburg and Pikeville, as soon as practicable, so that the tolls arising therefrom may be applied in aid of the Sinking Fund; and said Board shall appoint gate keepers, and fix the rate of tolls, as prescribed by the act providing for the improvement of said road, approved February 11, 1836.

\$5,000 may be expended.

SEC. 2. That said Board may expend the sum of five thousand dollars in the completion of said road to the Virginia State line, if, in their opinion, said road is of sufficient public

utility to justify the expenditure, and if, also, said sum is sufficient to complete said road; and in order to enable the Board to determine as to the propriety of the expenditure, they may cause a survey to be made of said road, or may determine from the surveys already made.

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Sec. 3. That before any contracts are made for the further improvement of said road, the Board shall cause at least ten days notice of the time and place where said contracts are to be let, to be published in three of the most public places convenient thereto, and at the court houses of Floyd and Pike counties; and said Board shall have full power to adopt the plan, and prescribe the kind of improvement to be done on said road.

Notice of letting contracts to be given.

Sec. 4. That so soon as said sum of five thousand dollars is expended, the Board of Internal Improvement shall have power and authority to cause to be erected one additional toll gate on said road, making three gates in all; and may, from time to time, regulate the tolls, appoint and remove gate keepers, and do all other acts that may be considered most conducive to the public good.

Additional gate to be erected, when the sum is expended.

Approved January 7, 1839.

CHAP. 1017.—AN ACT to incorporate the Louisa Literary Society.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the present and those who may hereafter become members of the Louisa Literary Society, their associates and successors, be and they are hereby made and constituted a body politic and corporate, by the name and style of the Louisa Literary Society, and by that name shall have perpetual succession; and are hereby made able and capable to have, purchase, receive and possess, enjoy and retain, to them and their successors, such tenements, goods and chattels, and effects, as they may deem necessary for the use and advantage of said society, and for the promotion of literature and the dissemination of knowledge; and the same to sell, grant, and dispose of, at pleasure: provided, that the legislature reserves the right to repeal, alter, or modify this charter, at pleasure.

Corporate powers.

Sec. 2. That the said Louisa Literary Society is hereby empowered to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity in this Commonwealth; and shall be and is hereby vested with all privileges and powers which, by law, are incident to corporations of a similar character; also, to make, have, and use a common seal, and the same to break, alter or renew, at pleasure; also, to form, establish, and put in use and execution, such by-laws, ordinances and regula-

Proviso.

May sue and be sued, &c., & have a common seal.

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May pass by-
laws, &c.

tions, as shall be necessary and convenient for the government of said corporation, and which are not contrary to the constitution and laws of this Commonwealth; and generally to do and execute all and singular the acts necessary to carry into effect the objects of this charter.

May elect a
President, Se-
cretary, &c.

SEC. 3. That the members of said society shall meet at such times as are and shall be prescribed in its by-laws, and shall elect a President, Secretary and Treasurer, and such other officers as the society may think proper, for the government thereof, whose terms of office shall be limited to such times as shall be hereafter specified in the laws and regulations governing the same.

Presid't may
appoint com-
mittees, levy
taxes, &c.

SEC. 4. The President elect, for the time being, shall have power, and is hereby authorized to appoint, from time to time, such committees, officers and agents, as shall be necessary to carry into effect the objects for which this corporation is established; and to levy and collect taxes, fines and forfeitures, and contributions, agreeably to the laws of said society. A majority of the members at any one time shall constitute a quorum.

Approved January 7, 1839.

CHAP. 1018.—AN ACT for the benefit of the Sheriff of Lawrence County.

Credits to be
allowed by Au-
ditor.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts, in his settlement with the Sheriff of Lawrence county for the revenue tax, in the year eighteen hundred and thirty eight, shall allow said Sheriff a credit for the sum of seventy four dollars and seventy one cents, being the amount of the delinquent list, or exonerations, allowed by the County Court of Lawrence. Nothing in this act is to be construed, in any manner, to release the Sheriff of Carter County from being responsible for said revenue.

Further time
to return his
delinquent list.

SEC. 2. That said Sheriff be allowed until the first day of February, eighteen hundred and thirty nine, to return to the Auditor of Public Accounts his delinquent list of revenue tax and jury fees, for the year eighteen hundred and thirty seven; and that for the amount of said delinquent list, the said Sheriff shall be allowed a credit for his revenue falling due in the year eighteen hundred and thirty eight.

Approved January 17, 1839.

CHAP. 1019.—AN ACT providing that certain legacies and devises shall not lapse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter legacies and devises to children and grand children shall not lapse by the death of the legatee

or devisee before the testator; provided such legatee or devisee shall have children living at the death of the testator, who would have taken as heir by descent, or as distributee of the legatee or devisee.

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Approved January 17, 1839.

CHAP. 1020.—AN ACT to continue in force an act to allow the Independent Banks of this Commonwealth further time to collect and settle their concerns, approved January 4, 1836, and for other purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act entitled, an act to allow the Independent Banks of this Commonwealth further time to collect and settle their concerns, passed and approved January four, eighteen hundred and thirty six, shall be and the same is hereby continued in force for the period of five years from and after the first day of February eighteen hundred and thirty six; and, that during that time, the several Independent Banks of this Commonwealth, and such of them as may have appointed agents as authorized by law to close their concerns, may severally and respectively sue and be sued, plead and be impleaded, and prosecute all suits now pending in any of the courts of this Commonwealth, or elsewhere, and to collect all debts due them as fully and completely as if their charters had not expired or been repealed.

Approved January 17, 1839.

CHAP. 1021.—AN ACT for the benefit of the Sheriffs of Owen and Butler Counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Joel Herndon, Sheriff of Owen County, is hereby allowed until the first day of May, eighteen hundred and thirty nine, to pay into the public Treasury the revenue due from him for the year eighteen hundred and thirty eight: provided, that his securities in his bond as Sheriff do, on or before the third day of next term of the General Court, by writing, under their proper hands, agree to said indulgence; which shall be filed in the Clerk's office of the County Courts of said counties, and certified copies of the same filed with the Auditor of Public Accounts. And there is hereby allowed to William E. Dixon, Sheriff of Butler county, a like indulgence in regard to the revenue due from him for the same year, on condition that his securities in his bond as Sheriff enter into a similar agreement, in writing, within the period above prescribed, and in the same manner.

Time given
to pay revenue
to Sheriff of
Owen.

To Sheriff of
Butler.

Approved January 17, 1839.

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CHAP. 1022.—AN ACT for the benefit of Matthew Reid, and the infant children of Samuel M. Smith, dec'd

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts, issue to Matthew Reid a warrant for thirty six dollars, and to Samuel H. Smith and William Smith, the infant children of Samuel M. Smith, or to Edmund F. Vawter, as their guardian and next friend, in trust for them, a warrant for thirty six dollars, in consideration of the apprehension of Roswell Sturdevant, in the State of Ohio, by said Matthew Reid and Samuel M. Smith, and their bringing him to Mountsterling, in this State, and committing him to the Jail of Montgomery county, to answer to an indictment which had been found against him in the Montgomery Circuit Court, for felony.

Approved January 17, 1839.

CHAP. 1023.—AN ACT to amend an act, entitled, an act establishing the town of Ghent, in Gallatin county.

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boundary of the town of Ghent, in Carroll county, shall be, and remain, as now established by law; and that T. Fisher, Samuel Sanders, jr., James Knox, John C. Lindsay and Richard Sarlls be, and they are hereby appointed Trustees for said town, who shall continue in office until the first Monday in June, eighteen hundred and thirty nine, and at the expiration of that time, and on the first Monday in June in every year thereafter, it shall be lawful for the qualified citizens of said town, to elect five Trustees for said town, who shall be citizens thereof, the Clerk of said Board of Trustees giving five days notice of the time and place of such election, by advertisements to be set up at at least three of the most public places in said town.

Trustees appointed, and how elected hereafter.

SEC. 2. That the provisions of an act entitled, an act to incorporate the town of Crittenden, in Grant county, approved February fifteenth, eighteen hundred and thirty eight, except so far as the said act may be local and inapplicable, shall be, and the same is hereby, enacted and adopted as applicable to said town of Ghent, heretofore, as well as hereby, incorporated, except so far as it is modified by, and is made parts of, this act.

Act incorporating the town of Crittenden adopted.

SEC. 3. That all acts, or parts of acts, coming within the purview of this act, shall be, and the same are hereby, repealed.

Repealing clause.

Approved January 17, 1839.

CHAP. 1024.—AN ACT to authorize certain Land Warrants to be surveyed in the County of Clinton.

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WHEREAS, it is represented that certain Land Warrants, appropriated by a former act of the Legislature of this State, for the improvement of the road on Grider's Hill, then in the county of Cumberland, but now in the county of Clinton, in this State, and which, by law, were to be surveyed in said county of Cumberland, have been surveyed in part only—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Surveyor of said county of Clinton, shall be, and he is hereby, authorized to survey in any part of Clinton county, upon any vacant and unappropriated land therein, that portion of said Warrants, which have not been previously surveyed; and that a patent or patents may issue thereon, in the same manner as they might, by law, have issued, had the surveys been made in the county of Cumberland.

Approved January 17, 1839.

CHAP. 1025.—AN ACT to establish the town of Pleasant Hill in Calloway County.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a town, to be known by the name of Pleasant Hill, shall be, and the same is hereby, established; and under the direction and superintendence of Robert W. P. Pool, the proprietor of the land, to be laid out into lots, streets and alleys; and it is directed that a plat of said town shall be made out and recorded in the Clerk's office of the County Court of Calloway. Town established.

SEC. 2. That John C. Wilcox, Daniel Holeman, Edmund Curd, Charles Linn, and Henry R. Bailey, be, and they are hereby, appointed Trustees of said town, who shall continue in office until the citizens of said town shall elect Trustees under the provisions of this act; which Trustees, hereby appointed, as well as their successors in office, shall have power and authority, and shall perform the same duties as are given and imposed by the general laws of this Commonwealth, in relation to Trustees of towns. Trustees appointed, and their powers.

SEC. 3. That whenever the citizens of said town shall deem it expedient to elect Trustees of said town, it shall be lawful for them to meet at some convenient place, when and where all the free white male inhabitants of said town, above twenty one years of age, shall be entitled to vote, *viva voce*, for Trus- How Trustees may be elected.

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tees for said town, who shall serve until their successors are duly elected, which election shall be conducted by the Clerk of the Board of Trustees.

Clerk be appointed, & his duty defined.

SEC. 4. That the Trustees, hereby appointed, shall appoint a town Clerk, who shall continue in office until the election of Trustees next succeeding his appointment, and in like manner each new Board shall appoint their Clerk, whose duty it shall be to keep a fair record of the proceedings of the Trustees, and to give public notice, by advertisement in said town, at least ten days previous to any election for Trustees.

Trustees may pass by-laws.

SEC. 5. That the Trustees of said town shall have full power to pass all by-laws which they may, from time to time, think advisable for the government of said town, provided that they be not contrary to the constitution and general laws of this State.

Lots vested in Trustees who may convey them.

SEC. 6. That the land and lots included in said town, as shown by the plan thereof, shall be vested in the aforesaid Trustees, and their successors in office, with full power and authority to convey the lots to persons entitled thereto.

Approved January 17, 1839.

CHAP. 1026.—AN ACT for the benefit of the Sheriffs of Christian, Wayne and Pulaski Counties.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts shall receive the delinquent list of the Sheriff of Christian county, for the year eighteen hundred and thirty eight, and is directed to issue his Warrant on the Treasury for the payment of the amount thereof, and the Treasurer shall pay the same to the holder of said Warrant, out of any money in his hands not otherwise appropriated.

SEC. 2. That the Sheriffs of Wayne and Pulaski counties shall have until the fifteenth day of February, eighteen hundred and thirty nine, to return their delinquent lists for the year eighteen hundred and thirty eight, to the Auditor of Public Accounts, and he is directed to receive the said delinquent lists, as though they had been returned previous to the first of January, as required by law.

Approved January 17, 1839.

CHAP. 1027.—AN ACT to allow additional Constables to the counties of Spencer and Calloway.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, it shall and may be lawful for the County Court

of Spencer County to appoint an additional Constable for said county, who shall reside in the town of Taylorsville.

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SEC. 2. That the County Court of Spencer County, in making the appointment provided for in the first section of this act, shall be governed by the laws now in force in this Commonwealth in relation to Constables.

SEC. 3. That one additional Constable be allowed to the county of Calloway, who shall reside within the bounds of Capt. Arrant's company.

Approved January 17, 1839.

CHAP. 1028.—AN ACT to allow an additional Justice of the Peace to the county of Clay.

WHEREAS, it is represented that the citizens of the town of Manchester, in the county of Clay, labor under many inconveniences for want of a Justice of the Peace in said town—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That one additional Justice of the Peace be allowed to said county.

Approved January 17, 1839;

CHAP. 1029.—AN ACT to allow an additional Constable in the county of Logan.

WHEREAS, it has been represented to the General Assembly of Kentucky, that the citizens of Russellville, in Logan county, labor under considerable inconvenience for the want of an additional Constable—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That one additional Constable be allowed to the county of Logan, to reside in the town of Russellville.

Approved January 17, 1839.

CHAP. 1030.—AN ACT for the benefit of the heirs and representatives of Eliza Murray, deceased.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that Eliza Murray, late of Breckinridge County, being the owner of a number of lots in the town of Cloverport in said county, made a will, by which she authorized her husband, David R. Murray, to sell

Preamble.

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and convey any portion of said lots, and to convey certain lots which had been theretofore sold; but because she was, at the time of making said will, and of her death, a married woman, said will is believed to be of no effect, although the same has been duly proven and recorded, and is represented to have been made under the advice and superintendence of her brother and uncle, upon whose legal knowledge entire confidence was placed; and whereas, it is further represented, that it will be advantageous to the husband of said decedent, and to her infant heirs, that some provision should be made to authorize a sale of a part or the whole of said lots, from time to time, as the interests of those concerned may require—therefore,

Bills in chancery may be filed, by whom, and for what purpose.

Commissioners to be appointed to value estate, and a sale thereof may be decreed

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the said David R. Murray, in his own right, and as guardian for the infant children of the said Eliza Murray, to file his petition in the Breckinridge Circuit Court, setting forth the facts, and that it will be advantageous to said infant heirs that authority should be given to sell the lots in said town of Cloverport, which petition shall be sworn to, and shall set forth all the lots he has conveyed under the power conferred on him by said will; and the court shall, thereupon, appoint three Commissioners, who shall report the situation, amount and value of the estate of said infants, as near as may be, as required by the general law authorizing the Chancellor to decree the sale of the real estate of infants, and who shall, also, report their opinion as to the propriety of directing a sale of the whole or any part of said lots; and the court may direct any other proof to be taken, which may be deemed necessary or proper; and upon the coming in of said report, it shall be lawful for said court to decree a sale of the whole or any part of said lots, upon such terms as the court may deem most advantages to all the parties concerned, and may authorize said guardian, as Trustee, to sell either publicly or privately.

Guardian to give bond.

SEC. 2. That before the court shall decree a sale, the guardian shall be required to give bond, with good security, in such penalty as the court may prescribe, payable to said infant heirs, and conditioned to pay, at the death of said David R. Murray, the amount that may be received for said lots sold, but without interest.

Sales to be reported.

SEC. 3. That said Trustee shall, from time to time, as he may make sales, report the same to court; and if the court approve the sales, convey in pursuance thereof.

Court may confirm deeds already made.

SEC. 4. That the court may confirm any deed which said Trustee may have made heretofore, if, in the opinion of the court, it will be proper under the circumstances to do so; and if the amount of sales shall require it, the court shall have power, at any time, to require an additional bond with increased penalty.

Approved January 17, 1839.

CHAP. 1031.—AN ACT to establish a State road from Litchfield, in Grayson County, to Munfordsville, in Hart County.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Hiram Carrico, of Grayson county, and Henry Harrel, John Craddock, Washington Self, and James O. Logsdon, of the county of Hart, be, and they are hereby, appointed Commissioners to view and mark the best, nearest, and most practicable route for a State road from Litchfield, in Grayson county, to Munfordsville, in Hart county, by way of the White Sulphur Springs, in Grayson county, crossing Nolynn at the Chapel ford, and through the upper part of Logsdon's valley, in Hart county; who, or a majority of them, shall meet in the town of Litchfield, on the first Monday in June next, and proceed to view and mark the route for said road, and give notice thereof to those over whose land the proposed road may run: provided, they reside thereon; or may be known to said viewers, and if desired by said owners, that they estimate the damages he, she or they will sustain by the establishment of the road, and shall report their proceedings to the County Courts of Grayson and Hart counties, stating also the number of days that each of them have been employed under the provisions of this act, in the discharge of the duties assigned them.

Commissioners appointed.

When and where they are to meet, and their duty.

SEC. 2. That if any proprietor of land over which the road may be established, shall fail to require an assessment of damages by the Commissioners, and shall apply to the County Court of the county in which the land may lie, the said Court shall make an order for the assessment of damages by a jury, who shall be governed, in all respects, by the general law regulating proceedings of the same kind under writs of *ad quod damnum*.

Proprietors of land may have damages assessed, and how.

SEC. 3. That if the several County Courts of the counties through which the proposed road is to run, shall agree to pay the damages which may be assessed in their respective counties, they shall proceed to lay off said road into convenient sections or precincts, within their respective counties, and appoint overseers and a sufficient number of hands to open and keep said road in repair twenty feet in width.

The County Courts to pay damages and lay off road into precincts, & allot hands.

SEC. 4. That said Commissioners shall, before they proceed to the duties assigned them by the provisions of this act, take an oath before some Justice of the Peace, to faithfully and impartially perform the duties assigned them under this act; and said Commissioners shall each be entitled to the sum of one dollar and fifty cents per day, while engaged in the duties aforesaid, to be paid by the respective counties in which they reside.

Commissioners to take an oath.

Compensation of Commissioners.

Approved January 17, 1839.

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CHAP. 1032.—AN ACT for the benefit of Willie Sugg.

Preamble. WHEREAS, it is represented to this General Assembly that Willie Sugg owns three fourths of one tenth part of a tract of fourteen hundred acres of land, lying on the waters of Deer creek, near the line between Henderson and Hopkins counties, and patented to John Hurt; and that the whole of said fourteen hundred acre tract of land was, in the year eighteen hundred and twelve, forfeited to this Commonwealth, for non-payment of taxes; and that the said Sugg is desirous of redeeming the portion of said tract owned by him, as aforesaid—therefore,

Forfeiture of land to be released on payment tax, &c. SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all or any forfeiture be, and the same is hereby, released as to the three fourths of one tenth part of the fourteen hundred acres mentioned in the preamble, which is owned, as therein stated, by the said Sugg, when he shall pay, or cause to be paid, to the Auditor of Public Accounts, three fourths of one tenth part of the entire amount of tax, interest, and costs, for which the said fourteen hundred acre tract of land was forfeited.

Land to be stricken from the Auditor's books. SEC. 2. That, upon the said Sugg producing the certificate of the proper Clerk, to the Auditor, describing his share of said land, the Auditor is hereby authorized and required to strike said share from his books.

Approved January 17, 1839.

CHAP. 1033.—AN ACT abolishing an Election Precinct in Casey county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act establishing election precincts in the counties of Graves and Casey, approved December five, eighteen hundred and twenty two, as relates to the county of Casey, be, and the same is hereby, repealed.

Approved January 17, 1839.

CHAP. 1034.—AN ACT to establish an Election Precinct in the county of Allen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an election precinct be, and the same is hereby, established at the house of William Siddens, senior,

in the county of Allen; and the laws of this Commonwealth on the subject of elections, shall be observed in all elections that shall be held at said precinct.

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Approved January 17, 1839.

CHAP. 1035.—AN ACT for the benefit of the Sheriff of Muhlenburg county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Sheriff of Muhlenburg county have until the first day of July, eighteen hundred and thirty nine, to return his delinquent list of revenue tax for the year eighteen hundred and thirty eight, to the Auditor of Public Accounts: and upon the return thereof, it shall be the duty of the Auditor to issue his warrant, on the Treasurer, for the amount thereof, which shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. That the said Sheriff of Muhlenburg county shall be allowed until the next annual Court of Assessment of fines for the fourteenth Regiment of Kentucky Militia, to return his delinquent list for the year eighteen hundred and thirty eight.

Approved January 17, 1839.

CHAP. 1036.—AN ACT for the benefit of the Sheriff of Clay county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That George H. Rogers, Sheriff of Clay county, be, and he is hereby, allowed the further time until the first day of May, eighteen hundred and thirty nine, to settle with the Auditor of Public Accounts, and pay into the Treasury the revenue of said county for the year eighteen hundred and thirty eight, and to return his delinquent list for said year: provided, the securities of said Sheriff shall enter their assent to this indulgence on record in the office of the County Court of said county, and deposite with the Auditor of Public Accounts, a certified copy of such assent, on or before the third day of the next term of the General Court of this State.

Approved January 17, 1839.

CHAP. 1037.—AN ACT for the benefit of the Sheriff of Henderson county.

WHEREAS, it is represented to this General Assembly that the two principal deputies of the Sheriff of Henderson county,

Preamble.

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were taken sick in the summer of the present year, and remained sick for a considerable length of time, whereby they were prevented from collecting the revenue of their county, in time, to enable them to settle and pay over to the Auditor, the amount thereof, at the period required by the existing laws—therefore,

Allowed further time to collect and pay revenue.

Proviso.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of Henderson county be and he is hereby allowed until the first day of April, in the year eighteen hundred and thirty nine, to collect and settle with the Auditor, and pay into the Treasury the revenue of said county, any law to the contrary notwithstanding: provided, the securities of said Sheriff shall, on or before the first day of February, eighteen hundred and thirty nine, before the Clerk of the Henderson County Court, give their assent, in writing, to the delay above provided for: and provided further, the Sheriff and his securities shall, in such written assent, waive the service of notice in any suit which may be brought against said Sheriff and his securities, in consequence of his failure to pay over the revenue of said county of Henderson by the first day of April, in the year eighteen hundred and thirty nine, as above provided for.

Approved January 17, 1839.

CHAP. 1038.—AN ACT for the benefit of the Sheriff of Calloway county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of Calloway county be and he is hereby allowed until the next April term of the County Court of said county to return his delinquent list for the year eighteen hundred and thirty eight; and that he be allowed the further time until the first day of May next, to pay into the treasury the balance of the revenue, due from said county, for said year: provided, that the securities of said Sheriff shall, on or before the third day of the next session of the General Court, of this State, enter their assent of record in the office of the Clerk of the County Court of said county, to this indulgence; and that the said Sheriff shall file a certified copy of such assent with the Auditor of Public Accounts, on or before the above named third day of the next session of the General Court.

Approved January 17, 1839.

CHAP. 1039.—AN ACT to incorporate the town of Francisburg, in Union county.

Trustees to be elect'd, when and how.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the free white male inhabitants, over the age of twenty one years, residing in the town of

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Francisburg, in the county of Union, and the owners of lots in said town, being free persons, and over the age of twenty one years, shall, on the first Monday in June, in the year eighteen hundred and thirty nine, and on the same day in every year thereafter, meet, at some convenient place within said town, and proceed to elect five Trustees for said town, who shall be residents of said town, and who shall hold their office for one year next after their election, or until their successors are duly chosen and appointed; and all elections for Trustees shall be conducted under the direction of any Justice of the Peace of said county of Union, who shall act as judge therein; and said Trustees, so elected, before they enter on the discharge of their duty, shall take an oath, before some Justice of the Peace of said county, truly and faithfully to perform the duties enjoined on them, by law, as Trustees.

Sec. 2. That said Trustees, and their successors, shall be a body corporate, and, by the name and style of the Trustees of the town of Francisburg, may contract and be contracted with, sue and be sued, plead and be impleaded, in any courts of law or equity within this Commonwealth; and the said Trustees shall have power to pass all necessary by-laws and ordinances, for the improvement, regulation, well-being and advancement of the interest and morals of the said town, provided the same be not inconsistent with the constitution of the United States, or the constitution and laws of this Commonwealth.

Sec. 3. That said Trustees shall be authorized to receive, by purchase or donation, any lot or lots of ground, in or near said town, for the purpose of the erection of a market house, school house, meeting house, or any other necessary public building; and may order, provide for, and contract for the erection of the same; and they shall have power to assess a poll tax, on the legal tithables of said town, not exceeding fifty cents on each tithe, and an *ad valorem* tax on the real, personal, and mixed estate, within said town, that is now taxed by the revenue laws of this Commonwealth, not exceeding fifty cents on each one hundred dollars' worth of property; they shall have power to contract for the sinking of wells, the improvement of springs, the grading and improvement of the streets, alleys, and river banks, and paving the side walks, in said town; they shall have authority to levy and collect, from the owner or owners or managers of all exhibitions of animals, and shows of every description, within the limits of said town, any amount, not exceeding fifty dollars for each show or exhibition; and they shall have power to pass by-laws to suppress racing, or the running of horses, within the limits of said town; and to prevent all other disorderly conduct or practice within the same; and, for a breach or violation of any of the by-laws and ordinances, said Trustees shall have a right to sustain an action therefor, against any person or persons so offending, before any Justice of the Peace within this Commonwealth. The said Trustees shall appoint one of their own

Corporate powers of the Trustees.

May purchase lots for certain purposes.

May levy taxes.

May contract for the sinking of wells, grading streets, &c.

Trustees may tax shows, &c.

May pass by-laws to suppress racing—breaches of the peace, &c.

Chairman to be appointed—his powers and duties.

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Fines and forfeitures applied.

body as Chairman, who shall preside over the meetings, keep order; who shall have power to call a meeting of the Board, at any time; and it shall require a majority of said Trustees to transact business; and all fines and forfeitures that shall be recovered, and all taxes that shall be assessed and collected, by the said Trustees, shall be by them appropriated in the purchases or improvements before directed.

Clerk to be appointed, and his duties prescribed.

SEC. 4. That said Board shall elect a Clerk, who shall continue in office for one year, and until another is duly appointed, whose duty it shall be to preserve and safely keep all papers belonging to, or filed with, said Board, and record all the proceedings thereof, in a book to be furnished by said Board for that purpose, and shall copy and certify all records and ordinances, that may become necessary, and record a map or plan of said town, when made out and furnished.

Assessor to be appointed

SEC. 5. That said Trustees shall appoint an Assessor, to assess the property and persons within said town, liable to taxation, and, upon the performance thereof, said Trustees shall fix and direct the payment of his compensation.

Collector to be appointed—his powers and duties.

To execute bond.

Condition and penalty for a breach thereof, how to be recovered.

SEC. 6. That said Board shall have power to appoint a Collector, who shall have power and authority to collect, by distress or otherwise, the taxes levied on the persons and property within said town, as before directed; and before said Collector shall proceed to the performance of the duties herein prescribed, he shall execute bond, before said Trustees, in such penalty as said Board shall direct, with sufficient security or securities, to be approved of by them, payable to said Trustees, conditioned for the faithful collection of said tax, and the payment of the same over to said Trustees, or to such person or persons as they shall direct; and for a breach of the condition of said bond, said Trustees shall have power and authority to move against said Collector and his security or securities, by suit on his bond, or by motion in any of the Circuit Courts of this Commonwealth, and, by a judgment of said court, recover, against said Collector and his securities, any amount of money that may be found due from him, with twenty per centum damages thereon, and shall have execution therefor against them; and the Clerk of such court shall endorse thereon, that "no security of any kind shall be taken."

May appoint Treasurer and other subordinate officers.

SEC. 7. That said Board shall have authority to appoint a Treasurer, and all other subordinate officers, and prescribe their several duties, and fill all vacancies that shall occur in the Board by death, resignation, or refusal to qualify.

Approved, January 17, 1839.

CHAP. 1040.—AN ACT allowing further time to enter and survey Kentucky land warrants, and to return plats, and certificates of survey.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the holders of Kentucky Treasury Warrants, for land, shall be allowed time until the first day of Jan-

uary, eighteen hundred and forty one, to cause the same to be entered and surveyed, and to return the plats and certificates of survey to the Register of the Land Office; and that where any such warrant has been heretofore entered and surveyed, but the plat and certificate of survey have not been so returned, in the time aforesaid, and in either case, it shall be the duty of the Register to receive and receipt for them; and a patent shall be issued thereon according to the laws now in force in relation to the emanation of patents.

Approved January 17, 1839.

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CHAP. 1041.—AN ACT for the benefit of Mary Kimes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue a warrant upon the Treasury, in favor of Mary Kimes, for the sum of two hundred and fifty dollars, for the keeping and maintaining of John Kimes, an idiot, of Bourbon county, from the year eighteen hundred and twenty nine, until the fifth day of June, eighteen hundred and thirty eight, the date of the inquest establishing his idiocy, under a writ of *de idiati inquirendo* from the Bourbon Circuit Court.

Approved January 17, 1839.

CHAP. 1042.—AN ACT for the benefit of Henry G. A. Blankman.

WHEREAS, Henry G. A. Blankman has presented to the Legislature a certified copy of a decree of the Louisville Chancery Court, which decree divorces him from his wife Ann Blankman, alias Ann Savourin: and, whereas, the statute under which said decree was obtained, contains a provision prohibiting persons, so divorced, from contracting matrimony for two years after rendering such decree: and, whereas, the said Henry G. A. Blankman has presented his petition to the Legislature praying to be released from the obligations, pains and penalties, of said restraining provision of the statute; and it appearing to the satisfaction of this Legislature, that the reasons for said restraining provision does not apply in his, said Blankman's, case—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Henry G. A. Blankman is, from this time, released from the restraints and penalties imposed upon him by the said decree, and he is at liberty to contract marriage at any time hereafter.

Approved January 17, 1839.

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CHAP. 1043.—AN ACT for the benefit of Keziah Craycraft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Keziah Craycraft and her husband William Craycraft, be and the same is hereby forever dissolved, so far as relates to the said Keziah, and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Keziah Ratliffe.

Approved January 17, 1839.

CHAP. 1044.—AN ACT for the benefit of Henry Clay, Jr.

WHEREAS, it appears that Henry Clay, Jr., of the county of Fayette, paid to the Sheriff of said county his revenue tax for the year eighteen hundred and thirty six, and that the same property, listed for taxation in Fayette, was, without the knowledge of said Clay, in the same year, listed in Jefferson; and he having been compelled to pay the said tax twice, and interest on the same—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor is hereby directed to issue his warrant on the Treasury in favor of said Clay for the sum of one hundred and ninety eight dollars, the amount of said tax and interest, to be paid out of any money in the Treasury not otherwise appropriated.

Approved January 17, 1839.

CHAP. 1045.—AN ACT for the benefit of John Cobb, Hezekiah Willis, Perry Waters and Shepherd Burch.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue his warrants upon the public Treasury in favor of John Cobb, Hezekiah Willis, Perry Waters and Shepherd Burch, for the sum of ten dollars each, being for services rendered by them and expenses incurred in the pursuit and apprehension of William March and William Downs, charged with the commission of robbery, and an attempt to murder James L. Canerdy, in Jessamine county; which warrants the Treasurer is directed to pay, out of any money in the Treasury not otherwise appropriated.

Approved January 17, 1839.

CHAP. 1046.—AN ACT to change the names of James Jameson and George Rook.

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WHEREAS, James Jameson and George Rook, of Pulaski county, have petitioned the Legislature to have their names changed, the first to that of James Modrell, and the latter to that of George Washington Faris—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of said James Jameson be and the same is hereby changed to that of James Modrell, and he shall, hereafter, be styled and known by that name; and the name of the said George Rook is hereby changed to that of George Washington Faris, and he shall, hereafter, be styled and known by the latter name.

Approved January 17, 1839.

CHAP. 1047.—AN ACT authorizing the mandate of the Court of Appeals to be filed with the Clerk of the Inferior Court, and executions to issue in certain cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That in all cases where the judgment or decree of the Inferior Court shall be affirmed by the decision of the Court of Appeals, it shall be lawful to file the mandate with the clerk of the Inferior Court, who shall note thereon the time of filing the same, and shall issue execution, or other process, as though the mandate had been entered of record in court, and at the next term of such court it shall be entered of record and a judgment or decree entered for the damages agreeably to such mandate: provided, this act shall not be construed to apply to suits in law or chancery when the right, title, or possession, of land is involved.

Approved January 21, 1839.

CHAP. 1048.—AN ACT authorizing the city of Lexington to levy an additional tax for the better organization and efficiency of the Fire Companies

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That in addition to the taxes now authorized by law, the Mayor and Council of the city of Lexington shall have the authority, in each year, to levy an additional *ad valorem* tax on the property within said city, not exceeding five cents on each one hundred dollars of assessed property, which shall be collected in the same manner

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as other taxes are by law collected in said city; and that the fund arising therefrom shall be kept by the Treasurer of said city distinct and separate from the other funds, and shall be expended only in discharge of debts, now subsisting against said city, for the purchase of fire apparatus, and providing facilities for obtaining water in time of fire, or for such other appropriations as may be made, by resolutions of the Mayor and Board of Councilmen, for similar purposes.

Approved January 21, 1839.

CHAP. 1049.—AN ACT for the benefit of Samuel Ingram, late Sheriff of Marion county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue to Samuel Ingram a warrant on the Treasury for twenty two dollars and ninety cents, being for excess of revenue paid by him in the year eighteen hundred and thirty five, as Sheriff of Marion county.

Approved January 21, 1839.

CHAP. 1050.—AN ACT to amend an act, entitled, an act for the benefit of William Butler, Clerk of the Monroe County Court, approved January 5, 1839.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act to which this is an amendment shall apply in every particular to William Butler, Clerk of the Circuit Court of Monroe county, as well as the County Court of said county.

Approved January 21, 1839.

CHAP. 1051.—AN ACT for the benefit of George O. Stovall.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That George O. Stovall, son of George J. Stovall, of Logan county, be and he is hereby legitimized, and made capable of inheriting by devise, descent, or otherwise, and entitled to all the rights and privileges that he would have been, if born in lawful wedlock.

Approved January 21, 1839.

CHAP. 1052.—AN ACT for the benefit of John W. Flora.

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WHEREAS, James Flora, and Sarah his wife, took charge of an infant boy, and have raised him, and are desirous that he should bear their name, and become their legal heir and representative, having no children of their own—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boy aforesaid shall be called and known by the name of John Wiggins Flora, and he is hereby made capable of inheriting the estate of said James Flora, and Sarah his wife, and to all intents and purposes be their legal heir and representative after their decease.

Approved January 21, 1839.

CHAP. 1053.—AN ACT concerning the Meade Circuit Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the August term of the Meade Circuit Court shall be held on the second Monday of said month, instead of the third Monday as now required by law, and shall be held six juridical days if necessary; and that the May and November terms, of said court, shall be held twelve juridical days if necessary.

SEC. 2. That all laws coming within the purview of this act, shall be and are hereby repealed.

Approved January 21, 1837.

CHAP. 1054.—AN ACT authorizing the appointment of a County Treasurer for Pendleton county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Court of Pendleton county, shall be and is hereby authorized and required, at their October or November terms, (a majority of all the Justices being present,) to appoint a County Treasurer, who may continue in office during the pleasure of the Court, and shall receive, for his services, such compensation as the Court may consider reasonable; and no person holding the office of Sheriff, deputy Sheriff, Coroner, Jailer, Constable, or Clerk, shall hold the office of Treasurer; nor shall any person exercise said office until he shall take an oath, in open court, faithfully to perform the duties thereof, and enter into bond, in such penalty

Term of office, compensation, who ineligible.

To take an oath and give bond.

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Condition of
bond.

Treasurer's
duties.

Liability of
Treasurer for
breach of his
bond, and for
failing to pay
claims to coun-
ty creditors.

Circuit Court
and Justices of
the Peace to
have jurisdic-
tion of motions
against Treas-
urer.

Treasurer to
answer on oath
as to his indebt-
edness.

and with such security as the Court shall require, conditioned for the faithful discharge of his duties as Treasurer, and for the payment of all claims against him as such, as well as for the payment and delivery to his successor in office, or to the order of said Court, the moneys remaining in his hands as Treasurer, and all books and papers appertaining to said office; and it shall be the duty of said Treasurer to receive from the Sheriff, or other collecting officers, all moneys due to his county, and disburse the same as the Court may direct, and perform such other acts, in relation to the collection and disbursement of the county dues as the Court may prescribe; and to keep in a book, to be furnished by the Court, a fair statement of the moneys so received and disbursed, and report to the Court, at the Court of claims, and at such other times as the Court may designate, a fair and full statement of his transactions as Treasurer.

SEC. 2. That for a breach of the condition of said bond, suits may be brought in the Circuit Court, by the Justices of the County Court, or by any other person aggrieved thereby, against said Treasurer, and his security or securities, or either of them, on the same terms and conditions as in other cases of official bonds, executed by public officers; and in case said Treasurer shall fail to pay any county creditor or claimant, after due demand, any sum levied for him or her, and specially directed by the Court to be paid by the Treasurer, he and his securities shall be subject to a judgment before a Justice of the Peace, or in the Circuit Court, either jointly or severally, by motion, upon ten days' previous notice thereof; and if it shall appear to the Court, or Justice of the Peace, on the trial of such motion, that, at the time of the demand of said claim or claims, the said Treasurer had money of the county in his hands, sufficient to pay off and discharge said claim or claims, the Court or Justice of the Peace, by their judgment, shall adjudge to the plaintiff, as damages, twenty per cent. on the amount of said claim, together with costs of motion: provided, that the Circuit Court shall not have jurisdiction of said motion, unless the amount sued for shall exceed fifty dollars; nor shall a Justice of the Peace entertain jurisdiction in any case when the sum in controversy exceeds fifty dollars; and the defendant or defendants shall not have a right to replevy executions issued on such judgments; but the Clerk of the Court or Justice of the Peace, before whom judgment may be had, shall endorse on all executions issued thereon, "that no security of any kind shall be taken."

SEC. 3. That upon the trial before a Justice of the Peace, the plaintiff shall have the right to call upon the defendant or defendants to answer, upon oath, touching his or their indebtedness to the county, or the amount of county revenue in his hands when the demand was made; and the party aggrieved shall have the same right to appeal, under the same rules and regulations, as they now have by the existing laws.

SEC. 4. That it shall be the duty of the Sheriff or other collecting officers to report and pay over to said Treasurer, quarterly, all moneys by him collected for their county; and before entering upon the duties of his or their office as Collector or Sheriff, shall, in addition to the oath now required by law, take an oath in open court, well and truly to report and pay over to said Treasurer, quarterly, all moneys by him collected for county purposes: provided, however, that nothing in this act shall be so construed as to prohibit the Sheriff from paying off claims against the county, and receiving a credit therefor in his settlement with said Treasurer.

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Sheriff to pay over; how and when.

Sheriff or Collector take an oath.

Sheriff may pay off claims.

Approved January 21, 1839.

CHAP. 1055.—AN ACT supplementary to an act approved the 12th of February, 1838, for the benefit of Isaac Young.

WHEREAS, Senit Young, of the county of Bath, hath represented to the present General Assembly that he is the father of Isaac Young, whose name was changed from that of Isaac Whitson by the above recited act, and that he is anxious that said Isaac may be legitimized—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Isaac Young be, and he is hereby, made legitimate, and made capable of inheriting, both in law and equity, lands and tenements, goods and chattels, rights and credits of said Senit Young, in as full and ample a manner as if he had been born in lawful wedlock.

Approved January 21, 1839.

CHAP. 1056.—AN ACT to amend an act to establish a Ferry across the Ohio river at Paducah.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of an act, entitled, an act to establish a ferry across the Ohio river at Paducah, approved February second, eighteen hundred and thirty eight, as prohibits the Trustees of said town from leasing or renting said ferry for a longer term than one year, be, and the same is hereby, repealed.

SEC. 2. That the Trustees of said town of Paducah shall have full power, hereafter, to lease said ferry for any term not exceeding four years nor less than one.

Approved January 21, 1839.

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CHAP. 1057.—AN ACT for the benefit of the citizens of Springfield.

WHEREAS, it is made apparent by the almost unanimous petition of the citizens of Springfield, that two valuable springs, in the vicinity of said town, to-wit: George W. Worland's and Walter Clement's, are indispensably necessary to the convenience, comfort and health of the citizens of said town, by supplying water in the dry seasons of the year for drinking, washing, cooking and for stock, and in view of these facts and from experience of the privation, suffering, inconveniences and distress sustained by the people of Springfield during seasons of protracted drought—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the road leading to said springs shall not be closed or obstructed, but shall remain open for the use and benefit of the citizens of Springfield, without hindrance or prevention, any law to the contrary notwithstanding.

Approved January 21, 1839.

CHAP. 1058.—AN ACT authorizing Thomas Bratcher to build a mill dam across Caney creek.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the County Court of Grayson county to authorize Thomas Bratcher, of said county, to erect a mill dam across Caney creek, on the land owned by him, below Caneyville; and the County Court aforesaid shall cause a specification of the height and character of the dam to be entered on the records of the court, and shall furnish said Bratcher with a copy of said specifications: provided, however, that the privilege of erecting said dam shall not be granted unless the County Court shall be of opinion that its erection will be of no injury to the public interest; and provided, also, that the Legislature reserves the right to cause said dam to be abated and removed, at any time, when the public interest may require it.

Approved January 21, 1839.

CHAP. 1059.—AN ACT to authorize the Trustees of Paris to sell a certain lot and street therein.

WHEREAS, the Trustees of Paris, Bourbon county, have petitioned the present Legislature for the passage of a law au-

thorizing them to sell and convey a certain lot and street therein—therefore,

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said Trustees are hereby authorized and empowered to sell, on such terms and in such manner as they may deem proper, and convey to the purchaser a certain lot, designated and known on the plat of said town, of record in the Bourbon County Court Clerk's office, as the public spring lot; and also to sell and convey, in like manner, that part of main cross street which lies between the public square and the line of out lot, No. 22, as designated on said plat.

Approved January 21, 1839.

CHAP. 1060.—AN ACT for the benefit of Joseph R. Perkins, and Mary P. Perkins his wife.

WHEREAS, it is represented to the General Assembly that Mary P. Perkins, wife of Joseph R. Perkins, is an infant under the age of twenty one years, and there has descended to her, from her father, John Gray, now deceased, a house and lot in the town of Hopkinsville, in the county of Christian, and Commonwealth of Kentucky; also, a tract of land which lies in the county of Logan, and Commonwealth aforesaid, containing about one hundred and sixty or seventy acres; which said house and lot, and tract of land, have been allotted to the said Mary P., now Mary P. Perkins, by Commissioners appointed by the County Court of Todd county; and, whereas, the said Perkins and wife have sold the same—therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the said Mary P. Perkins, wife of said Joseph R. Perkins, be, and she is hereby, made able in law to convey said house and lot, and tract of land, under the same rules and regulations that *femes covert*, of full age, can now convey, who are the holders of the fee simple title to land under the laws now in force.

Wife made capable to convey certain lands.

SEC. 2. That any deed which shall be made by said Perkins and his wife, for the house and lot, and tract of land, aforesaid, or for either, under the provisions of this act, shall be good and valid in law, to pass the title to the grantee or grantees, in said deed, as if the said Mary P. had attained the full age of twenty one years.

Approved January 21, 1839.

CHAP. 1061.—AN ACT to reduce the bounds of the town of Brownsborough.

WHEREAS, it is represented to the General Assembly that some years since an act of incorporation was passed by the

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Legislature, establishing the town of Brownsborough, in the county of Oldham, by which a part of the farm of William Shirley was included within the bounds of said town; and, whereas, it is also represented that said act of incorporation passed without the privity or consent of said Shirley, who has petitioned the present Legislature that the boundary of said town may be so changed as to exclude his farm—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the boundary of said town of Brownsborough be, and the same is hereby, so changed and reduced as to exclude the whole of said Shirley's farm from within the limits of said town.

Approved January 21, 1839.

CHAP. 1062.—AN ACT to authorize the Trustees of the town of Bedford to reduce the width of a certain street therein, and to sell the part so stricken off.

WHEREAS, the citizens of the town of Bedford, in the county of Trimble, have petitioned the present Legislature for the passage of a law authorizing the Trustees of said town to reduce the width of a certain street therein, and to sell and convey the grounds so taken off said street—therefore,

Street to be reduced, and how.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Trustees of said town be, and they are hereby authorized to reduce the width of that part of the street, in said town, that runs on the west side of the public square. Said reduction to be made on the west side of said street, commencing opposite the southwest corner of said square, where Archibald Bain's shoemaker's shop now stands, and running south to the limits of said town.

Part stricken off to be valued by Commissioners & reported to Trustees.

SEC. 2. That said Trustees be, and they are hereby, authorized to appoint three Commissioners, any two of whom may act, who, after having been first duly sworn before a Justice of the Peace for said county, well and truly to perform the duties required of them by this act, shall proceed to value that part of said street which may have been stricken off under the authority of this act, valuing separately that portion of the same that lies immediately in front of each lot adjoining thereto, and, where improvements may have been made on any portion of the street so stricken off, they shall not be taken into the estimate in making such valuation, who shall immediately report to said Trustees, in meeting, setting forth the valuation made by them, as above provided, together with the names of the person, or persons, owning lots on said street, stating what the portion of said street, stricken off, as aforesaid, immediately in front of each lot, had been valued at by them.

Concerning owners of lots.

SEC. 3. That whenever the owner or owners of a lot adjoining that portion of said street, so stricken off, shall pay to

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the Trustees of said town the sum to which that, immediately in front of said lot, was valued at by said Commissioners, then the said Trustees are hereby authorized and required to convey the same to such owner, or owners: provided, however, that such owner, or owners, to entitle themselves to the benefit of this provision, must, within four months from the time of making such valuation, by said Commissioners, pay over to said Trustees the sum to which the portion of said street, immediately in front of their respective lots, was valued.

SEC. 4. That said Trustees shall report, to the County Court of said county, the amount received by them under the provisions of this act, and pay the same over to the Collector of the county levy in said county, which shall be expended, under the direction of said County Court, in improving the public square in said town.

Trustees to report amount received to the county court.

Approved January 21, 1839.

CHAP. 1063.—AN ACT to authorize the citizens of Louisville to raise and organize a Militia corps, to be styled the "Louisville Legion."

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the citizens of Louisville to raise and organize ten Volunteer Companies; one of which said companies shall be Dragoons, one Artillery, and eight Light Infantry, or Light Infantry and Riflemen, all of which said companies shall be organized, equipped, and officered, as similar companies are in the regular army of the United States.

Ten companies may be raised.

SEC. 2. That as soon as four of said companies shall have been raised and organized, they shall constitute a regiment, to be styled "The Louisville Legion," which regiment shall be entitled to all the officers that properly belong to a regiment in the army of the United States. The company officers of said regiment to be elected by the members composing each company; and the field and staff officers to be elected by the officers of the companies, jointly.

To constitute a regiment—style thereof—officers thereof—how elected.

SEC. 3. That whenever the Louisville Legion shall have raised and organized, as aforesaid, eight companies, or the whole number provided for by the first section of this act, they shall constitute a brigade, and be entitled to all the officers, properly belonging to a brigade, in the regular army of the United States; and the general officers of said brigade shall be elected by the commissioned officers thereof.

To constitute a brigade, &c be entitled to officers.

SEC. 4. That the Companies, hereby authorized to be raised, shall be called by their numbers, one, two, three, and according to the date of their organization, and take rank in their respective regiments, and in said Legion, from their number;

Companies to take rank by numbers.

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provided, however, that the company already organized, called the "Louisville Guards," shall be a part of said Legion, and shall rank as number one therein.

Who may join.

SEC. 5. That, in order to facilitate and encourage the raising and organizing said companies, it shall be lawful for any person, residing in the city of Louisville, or county of Jefferson, to join any of said companies, and the person so joining, shall be thereby exempted from doing militia duty in any other company; and the said companies shall be, and they are hereby, authorized to enroll as many as may think proper to join them as honorary members, and the honorary members of said companies may be excused from arming and equipping themselves; but shall, in lieu thereof, be required to pay the Treasurer of the Company, any sum, not more than ten, nor less than five, dollars per annum.

How honorary members may be enrolled.

Companies may make by-laws, &c.

SEC. 6. That the said companies, respectively, shall have full power and authority to enact all such by-laws, rules, and regulations, as they may deem important for their well being and good government, (not incompatible with the general laws of this Commonwealth,) and to levy such fines and contributions upon their members, (other than those who pay an annual sum in lieu of doing duty) as in their discretion may seem proper.

May elect Collector and Treasurer, &c.

SEC. 7. That the said companies shall be authorized to elect a Collector and Treasurer for each company, and to require said Collector and Treasurer to enter into bond and security, payable to the Captain of said company, and his successors, in such penalty as the company may, by its by-laws, direct, conditioned for the faithful performance of the duties required of such Collector, or Treasurer; and the Captain of said company may, at any time, in his style of Captain, commence and prosecute suit on said bond.

Powers and duties of Collectors.

SEC. 8. That the Collectors of the several Companies shall have power to collect all fines, contributions and debts due to said companies, as fully as Sheriffs have to collect muster fines by the laws of this Commonwealth; and it shall be the duty of said Collectors to settle with, and pay over to the Treasurer all moneys so by him collected, in such manner, and upon such terms, as said companies shall, by their rules and by-laws, direct and prescribe.

Duty of Treasurers.

Collectors & Treasurers may be removed.

SEC. 9. That the Treasurers of said companies shall keep, respectively, a record of all their receipts and disbursements, which shall be, at all times, subject to the inspection of the commissioned officers of said companies, and shall, in all respects, be regulated by the by-laws of said companies; and said Collectors and Treasurers may, at all times, be removed from office by said companies.

How money, in the hands of Tr. drawn and applied.

SEC. 10. That all moneys in the hands of the Treasurer shall be subject to the order of the commissioned officers, and drawn and applied in such manner as may be prescribed by the rules and by-laws enacted by said companies, respectively.

SEC. 11. That the said companies shall have power to purchase and hold all such real estate as may be necessary for the erection of arsenals, or other buildings, requisite for the preservation of their arms, munitions and equipments; and the conveyances of said real estate may be taken and held in any manner calculated to secure the possession, enjoyment, and titles thereof, to the use of said companies, and their successors.

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May hold real estate.

SEC. 12. That there shall be at least nine musters of each company, and at least four musters of the Legion, in every year; and it shall be the duty of the Captains of the several companies to give notice, in writing, of the days of the several company parades; and it shall be the duty of the Commandant of the Legion to have like notices given of the days of the Legionary parades—all of which notices shall be delivered on or before the first day of February, in each successive year.

Number of musters, and how notices are to be given.

SEC. 13. That, until the said Legion shall be raised and organized, it shall be the duty of the Captains of the several companies to make annual returns to the Adjutant General; and when the said Legion shall have been raised and organized, it shall then become the duty of the Captains to make their company returns to the Commandant thereof, whose duty it shall be to make a like return of the said Legion to the Adjutant General.

Returns to be made to Adjutant General.

SEC. 14. That the several companies hereby authorized to be raised, shall be independent companies, and not subject to the command of any militia field officer, within the bounds of whose command they may be raised; and that when the said Legion shall have been raised and organized, it shall, in like manner, constitute an independent corps.

Company's independent, Legion an independent corps.

SEC. 15. That the Mayor of the city of Louisville shall be, and he is hereby, authorized and empowered, whenever he may deem it necessary, in order to suppress or prevent insurrections, rebellions, or resistances, by a mob, of the civil authorities, to order out said Legion, or any of the companies thereof, and it shall be the duty of said Legion, and the companies thereof, to obey the orders of the Mayor when so issued.

May be ordered out by Mayor or to suppress mobs, &c.

Approved January 21, 1839.

CHAP. 1064.—AN ACT for the benefit of the Sheriffs of Franklin and Woodford counties.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Sheriff of Franklin county, be allowed until the annual Court of Appeals, to be held for the twenty second regiment of Kentucky militia, in the year

Sh'ff Franklin.

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eighteen hundred and thirty nine, to make out and return his delinquent list of muster fines, placed in his hands, assessed in the year eighteen hundred and thirty seven, and collectable in the year eighteen hundred and thirty eight.

The officers
authorized to
make settle-
ments, &c.

SEC. 2. That the proper officers of said regiment be, and they are hereby, authorized and empowered to receive such delinquent list, and act upon the same, as though it had been presented on the day prescribed by law; and the proper officers of said regiment are, also, authorized and required to make all such settlements with the Paymaster of said regiment, in relation to said fines, as required by law, after the return of such delinquent list by the Sheriff, as before directed, which shall be as valid in law as if made at the proper time.

Sheriff Wood-
ford.

SEC. 3. That the benefit of the provisions of this act be extended to the Sheriff of Woodford county.

Approved January 31, 1839.

CHAP. 1065.—AN ACT for the benefit of the Trustees of the Jury Fund in this Commonwealth, and for other purposes.

WHEREAS, many of the Trustees of the Jury Fund, in the several counties of this Commonwealth, in the year eighteen hundred and thirty eight, under a misapprehension of the law regulating their duties, have proceeded to make payments to jurors, not in term time, but after the adjournment of court; and doubts exist as to their right to credit therefor in their annual settlements with the Auditor of Public Accounts—wherefore,

Auditor to
allow Trustees
credit for am't
paid jurors.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Auditor of Public Accounts be authorized to allow the Trustees of the Jury Fund, in the several counties of this Commonwealth, credit for all sums paid to jurors, for their compensation, under the order of the Judges of the respective Circuit Courts, in the year eighteen hundred and thirty eight, whether said payments were made in term time, or in vacation.

Further time
given to jurors
to present claims
for services, to
Trustees for
payment.

SEC. 2. That further time is hereby given to jurors and veniremen, until the first day of November, eighteen hundred and thirty nine, to present to the Trustee of the Jury Fund, claims for services rendered, prior to the fifteenth day of January, eighteen hundred and thirty nine, which shall be paid by said Trustee agreeably to the provisions of the sixth section of the act entitled, "an act providing that the fines and forfeitures of this Commonwealth shall be a fund for the payment of jurors:" provided, that before said Trustee shall be authorized to make said payment, the juror, or venireman, presenting

said claim shall obtain from the Clerk, a certificate of the service; and the Clerk shall give such certificate in those cases only, where he is satisfied that such service was rendered.

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Approved January 21, 1839.

CHAP. 1066.—AN ACT to preserve the original manuscript of the annual Messages of the Governors of this State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Public Printer, annually, after the publication of the Governor's message, to return the original manuscript thereof to the office of the Secretary of State, there to be filed and kept, as other papers of the State are.

Approved January 21, 1839.

CHAP. 1067.—AN ACT for the benefit of Thomas J. Paris.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Thomas J. Paris and his wife, Paulina Paris, be, and the same is hereby, forever dissolved, so far as relates to the said Thomas J. Paris, and he is hereby restored to all the rights and privileges of an unmarried man.

Approved January 21, 1839.

CHAP. 1068.—AN ACT for the benefit of Ferdinand Hunn.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage between Ferdinand Hunn and Catharine Stenernegle, of the city of Louisville be, and the same is hereby, declared valid in law, and the issue of said marriage declared legitimate; and the said Ferdinand is released from the pains and penalties of having married a second time.

Approved January 28, 1839.

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CHAP. 1069.—AN ACT for the benefit of Sarah Ann Brown.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Sarah Ann Brown and George Brown be, and the same is hereby, dissolved, so far as relates to the said Sarah Ann, and that she be restored to her maiden name, Sarah Ann McKinley.

Approved January 28, 1839.

CHAP. 1070.—AN ACT to allow an additional Justice of the Peace to Barren County.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be allowed to the county of Barren, one additional Justice of the Peace, who may reside in the neighborhood of James Frazier, Esq., at the time of his appointment.

Approved January 28, 1839.

CHAP. 1071.—AN ACT to amend the charter of the Lexington and Georgetown Turnpike Road Company.

WHEREAS, it is represented to the General Assembly that there is a distance of about eight miles between the two toll gates, now erected upon the Lexington and Georgetown turnpike road, and that within said eight miles there are sundry *shunpikes*, which enable persons to use five or six miles of said turnpike road, with wagons and otherwise, greatly to the injury of said road without paying any toll—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said company, by their President and Directors, shall be, and they are hereby, authorized and empowered to erect a third toll gate at such point between said two gates as they may deem best.

May erect an
additional toll
gate.

Travellers
not to pay toll
at the said gate
and at other
gates.

SEC. 2. That if any traveller or passenger shall produce a ticket from the keeper of either of the gates now erected, as evidence that such traveller or passenger have paid toll at said gate, he shall be at liberty to pass said middle gate, free of toll; but if such evidence is not produced, he or she, and each of them, shall be required and compelled to pay full toll at said middle gate; and it shall be the duty of the toll gate keeper to furnish said tickets to travellers.

SEC. 3. That if any person or persons, not producing such evidence of having paid toll at either of the extreme gates, as aforesaid, shall refuse or fail to pay at the middle gate, he, she or they shall be subject to the same fines and penalties as are now provided for at the other gates.

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Penalty for not paying toll at additional gate.

SEC. 4. That this act shall continue and be in force for two years from its passage, and nothing in it shall be so construed as to restrain the Legislature from repealing this act: provided that it shall be the duty of the gate keeper, at the middle gate, to furnish a ticket to any person paying toll at said gate, which shall exempt him, her or them from paying toll at the other gate to which he, she or they may be traveling.

This act to be in force for two years.

Approved January 28, 1839.

CHAP. 1072.—AN ACT to make an addition to the town of Rochester, in Butler county.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that some thirty or forty years ago, there was a town laid off on a tract of land, formerly owned by one Tarrance, situate on Green river, just above the junction of Muddy river with said stream, then in the county of Logan, but now in the county of Butler, and known by the name of Suffolk, and that a public sale of lots, in said town, was shortly had thereafter, and many became purchasers, and have deeds for the same; and, whereas, there can be found on record no plat or certificate of survey in either of the County Court records of Logan or Butler, and all the marks, lines and corners by which said lots can be designated being removed or defaced, so that the rightful owners of the same cannot enjoy possession thereof—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Trustees of the town of Rochester, or a majority of them, together with the county Surveyor of Butler county, shall go upon the premises and cause to be laid off fifty acres of land, above alluded to, after the plan and style of said town of Rochester, and shall make marks, corners, &c., upon the ground, as well as a plat or chart of said fifty acres so laid off, which shall be deposited, with certificate of survey, endorsed by the Surveyor aforesaid, in the County Court Clerk's office of Butler county; and the fifty acres, when so laid off, shall be known and styled as the Suffolk addition to the town of Rochester.

The addition.

SEC. 2. That for the purpose of enabling the *bona fide* owners, who have paid for their deeds to lots in said formerly laid off town of Suffolk, an opportunity of knowing and having allotted to them, their several rights and privileges in re-

Owners of lots in the town of Suffolk to present their titles.

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lation to the same, it shall be the duty of the Surveyor of Butler county, and the Chairman of the Board of Trustees aforesaid, to have published, in one or more public journals of this State, for two months successively, to all who claim lots in the original town of Suffolk, to present them on or before the first day of October, eighteen hundred and thirty nine, to said Surveyor or Trustees: provided, however, that should they not see proper to present, by the above specified time, they shall not be prevented from having allotted to them as many pieces, or lots of ground, as he or they may be *bona fide* entitled to, upon the terms hereinafter specified.

The lots of claimants to be drawn for.

SEC. 3. That for the purpose of putting upon an equal footing all the claimants to lots in said original town, it shall be the duty of the Surveyor and Trustees aforesaid, to cause to be numbered every lot so laid off in this addition, upon the plan or plat to be filed as aforesaid, and counter-numbered on so many pieces of paper, which are to be rolled up and put into a box, and be drawn for by the owners or their agent, and the number so drawn shall be the number of the lot to which he or she is entitled; and the Surveyor of Butler county, together with Chairman of the Trustees, shall have full power and authority to convey, by deed, titles in lieu of original ones, so cancelled and liquidated, and the same shall be binding to all intents and purposes.

Trustees and Surveyor to be sworn.

SEC. 4. That before entering upon the duties in conformity to the provisions of this act, the Surveyor and the Trustees aforesaid, shall take an oath, before some Justice of the Peace for Butler county, to faithfully and justly, to the best of their ability, perform the same.

Expenses—how paid.

SEC. 5. That the Trustees of the town of Rochester shall pay out of their town Treasury, all the expenses of surveying and publishing which is prescribed by this act.

Claimants to have lots improved.

SEC. 6. That if there shall be buildings made by any person or persons who have *bona fide* and legal titles to lots in said town of Suffolk, he or they shall have the option to choose without drawing the said lot or lots, upon which the buildings may be found.

Approved January 28, 1839.

CHAP. 1073.—AN ACT for the benefit of the heirs of John T. Langhorne.

WHEREAS, Eliza B. Langhorne and Henry Waller, the former of whom is the widow and the latter the husband of one of the daughters of John T. Langhorne, deceased, represent that the said Langhorne died seized of a lot of ground in the city of Maysville, fronting on water street, and binding on main cross street one hundred feet, being the northeast corner

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of said streets; that the said lot is situated in the centre of the business part of the city, and has thereon old and decaying frame and brick tenements, which are not such buildings as should stand on so valuable a lot; that it is in contemplation to erect, on said lot, an extensive hotel, which would greatly enhance the value of an extensive row of brick buildings, on the same street, belonging to the estate of said Langhorne, deceased, and that a sale of said lot, and placing the proceeds at interest, for the benefit of the heirs, would greatly redound to their advantage—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the said Eliza B. Langhorne and Henry Waller may file their bill in chancery, in the Mason Circuit Court, against such of the heirs as are not complainants, setting forth the facts aforesaid, and praying that the Chancellor may decree a sale of said lot for the benefit of the heirs of said John T. Langhorne, deceased; and it shall be the duty of the Court to cause a guardian *ad litem* to be appointed for the defendants who are under age, who shall immediately put in an answer requiring proof of the allegations of the bill, and shall also cause process to be served upon the adult heir, Elizabeth B. Stockwell, unless she shall voluntarily file her answer; and upon the answers being filed, the Court may, at its discretion, authorize depositions to be taken and filed, and the cause heard at the same term at which the answers shall be filed, provided that said depositions shall have been taken upon due notice to the guardian *ad litem*, and to the defendant, Elizabeth B. Stockwell, unless her answer shall have admitted the facts charged in the bill; and, provided further, that the Court may, at its discretion, continue the case for further preparation. When the cause shall have been fully prepared, if the court shall be of opinion that a sale of the lot will redound to the benefit of the heirs, the Chancellor may decree a sale of the said lot upon such terms and conditions as will be most to the advantage of the infant heirs, and shall have full power to decree such an investment of the proceeds of sale as will render the same most productive to the heirs when they shall respectively attain full age, and as shall best guard against loss by insolvency or otherwise; but if the Court shall be of opinion that the sale will not redound to the advantage of the infant heirs, the bill shall be dismissed with costs.

Chancellor
may decree the
sale of a lot in
Maysville.

Approved January 28, 1839.

CHAP. 1074.—AN ACT to amend the charter of the Shepherdsville and Louisville Turnpike Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Shepherdsville

1839 and Louisville Turnpike Company shall be so amended as to authorize the capital stock thereof to be increased to the sum of one hundred and seventy five thousand dollars.

Approved January 28, 1839.

CHAP. 1075.—AN ACT to authorize the Clerk of Trigg county to record certain deeds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the provisions of an act, entitled, "an act to authorize the Clerk of Woodford county to record all deeds which were not recorded in said office at the time of the death of the late Clerk, approved first March, eighteen hundred and thirty six" be, and the same are hereby, applied to the Clerk of Trigg county.

Approved January 28, 1839.

CHAP. 1076.—AN ACT legalizing the appointment and acts of the Clerk pro tem. of the Gallatin Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the *pro tem.* appointment of John T. Robinson, as Clerk of the Gallatin Circuit Court by said Court, and all his official acts, since his appointment as Clerk of said Court be, and the same are hereby, legalized.

Approved January 28, 1839.

CHAP. 1077.—AN ACT for the benefit of Robert and Jane Middleton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for Robert and Jane Middleton to sell and convey a small tract of land, of the latter, in the county of Jessamine, containing less than twenty three acres, and the conveyance, properly executed and recorded, shall be as effectual, to pass the estate, as though the said Jane was of full age.

Approved January 28, 1839.

CHAP. 1078.—AN ACT to incorporate the Franklin Mining and Smelting Company.

WHEREAS, it has been represented to this General Assembly that the owners and proprietors of the Franklin Mining

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and Smelting Company, in the county of Franklin, Commonwealth of Kentucky, are desirous of procuring an act of incorporation, for the purpose of promoting the interest of the proprietors therein, and providing against those casualties and accidents by which partnerships and private associations are liable to be dissolved—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the present owners and proprietors of the Franklin Mining and Smelting Company, in the county of Franklin, Commonwealth of Kentucky, and their associates and successors, associated as hereinafter. provided, be and they are hereby created a body politic and corporate, by the name of the Franklin Mining and Smelting Company, and by that name, shall have perpetual succession, and shall be able and capable of suing and being sued, pleading and being impleaded, defend and being defended, answer and being answered unto, in any and all courts of competent jurisdiction, either at law or in equity; they shall, also, in their said corporate name, be able and capable, in law, to contract and be contracted with, to purchase, acquire, hold, possess, have, use, occupy, and enjoy, any and all such real and personal estate and property as may be necessary or convenient for the accomplishment of the objects and purposes of their association; and the same, or any part thereof, whenever, and as often as may be necessary or convenient for them, to lease, rent, mortgage or sell, and convey.

Company incorporated.

Corporate powers.

SEC. 2. That the said company shall have full power, and they are hereby authorized, to carry on the mining and smelting business, and extract all kinds of metals, excavate ores, erect furnaces, mills, machinery, and all and each sort of improvement necessary for the prosecution of said business, at any place within this Commonwealth, as lawfully as individuals could or might do; to employ, make, and appoint, any and all necessary agents, workmen, servants, officers, and attorneys, for transacting and performing the business and affairs of said company, and to allow a reasonable compensation for their services, and they, or any of them, to remove at pleasure, to deal in metals, minerals and other valuable thing.

Business of the company.

SEC. 3. That Henry Bradley and John Bradley be, and they are hereby, appointed commissioners to receive subscription for stock of the owners and proprietors of the said Franklin Mining and Smelting Company; and said commissioners, having first given notice to said owners, shall open books, at the residence of said John Bradley, to receive subscriptions for stock in said company from said owners, each of whose subscription may be equal in value, (at one hundred dollars for each share,) to double the amount of money paid and advanced to said company on the property, real or personal, appropriated to its use, all which shall be transferred and deeded to said company as a payment of fifty dollars on each share, so

Com's to receive subscriptions of stock.

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subscribed, as soon as the proper officers are elected and qualified to receive the same.

First election
of officers.

SEC. 4. That the said commissioners shall notify said stockholders to meet at a suitable time and place to elect officers, at which they may proceed to elect a President and two Directors, who shall hold their office one year, and until their successors are chosen and qualified; which choice shall be made annually, agreeably to the by-laws of said company; the number of Directors may be increased, and their salaries fixed at any annual election.

President &
Directors.

SEC. 5. That the affairs and business of the corporation shall be solely under the direction, supervision, and control of the President and Directors, and they are hereby fully authorized to do and transact the same, for, and on behalf of, said company all and whatsoever the said company is, by this act, authorized to do, transact, and perform; they shall, also, have power to make, ordain, and establish, such rules, ordinances, and by-laws as may be necessary for the government of the affairs and business of the company, not inconsistent with the constitution and laws of this Commonwealth, nor of the United States; they may adopt a seal for said company, and the same break, alter, and change at pleasure, declare dividends, fix the time and place to hold elections, and the meetings of the Directors.

Their powers.

Liabilities of
the company &
their privileges.

SEC. 6. That said corporation shall assume, pay, meet, and discharge, each and all the contracts, agreements, undertakings, and liabilities, created, made, or entered into, by the said owners and proprietors of the said Franklin Mining and Smelting Company, in relation to the business and property of the same, in the same manner that the present owners are liable to do; and the said corporation shall have and enjoy the full benefits, privileges, and advantages of any and all such contracts, agreements, and undertakings made by and with the said owners, and may enforce the performance thereof, for the benefit of said company, as fully as the said owners could or might do; and all obligations, in writing, given by the company, to which the laws of this Commonwealth does not require a seal, when signed by the President and Secretary of said company, shall be binding on the corporation; and on all deeds, or other instruments in writing, to which the law requires a seal, the seal of said corporation shall be made thereon, or fixed thereon, and signed by the Secretary.

Liability of
stockholders to
pay the corporate
debts.

SEC. 7. That in all cases where an execution has been issued against the goods and chattels, lands and tenements, of said corporation, and returned endorsed that "no property can be found," or not a sufficiency of property belonging to the said corporation can be found to satisfy the judgment, or which said execution issued, then, and in that case, after *scire facias*, another execution may be issued and levied on the goods and chattels, lands, and tenements, of each or any stockholder or stockholders of said company, so the full amount of stock he, she, or they may hold therein, or any who

were stockholders at the time the liability, on which said judgment was rendered, first accrued against said corporation.

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SEC. 8. That the capital stock of said corporation shall not exceed fifty thousand dollars, and shall be divided into shares of one hundred dollars each, which may be subscribed and paid for as provided by this act.

Capital stock.

SEC. 9. That the President and Directors may call on the stockholders, by instalments, for the payment of the balance due on the stock, upon reasonable notice, and open the books of the company for the sale of such portion of the stock, from time to time, as may remain untaken, if they think proper; and the stock of said company shall be transferable and assignable on the books of said corporation, in such manner as may be provided by the by-laws, and shall be held, in all respects, as personal estate.

Stock, how paid for.

How transferable.

SEC. 10. That the said company may borrow money, for the purpose of carrying on business, buy produce or property on credit, and procure labor on such credit as may be agreed upon: provided, always, that any person or persons who shall sell a written obligation, given by said company, or in any way pass the same, so that it falls into a third person's hands, shall be liable, on recourse, to pay the money to the holder or holders as individuals are liable in other cases.

Company may borrow money.

Proviso.

SEC. 11. That it shall be lawful service of process to execute the writ of notice on the President, Secretary, or either of the Directors, for the time being; and such service shall authorize judgment against the corporation in the same manner that judgments are taken against individuals on the execution of process.

Service of process on company.

SEC. 12. That the stockholders may vote at their annual elections in person or by proxy, and shall have one vote for each share they may severally own at the time; a plurality of votes may elect; the President and one Director, or two Directors, may constitute a board to do business; and the board may fill vacancies in their own body until the annual election, and may require bond and security in such sum or sums as they may wish, of any person under their appointment, for the faithful performance of their several duties; they may call a meeting of the stockholders, of which they shall give due notice; they may keep an office to do business at each place of mining or smelting.

Stockholders may vote in person or by proxy
Plurality of votes may elect
Quorum.
Powers of the board.

SEC. 13. That said company, by their President and Directors, shall, on the first day of October, in each year, make out a full and fair statement of the affairs of the company, exhibiting the aggregate amount of the debts due to and by it, and stating what portion of the debts due, or to become due to it, is considered by said President and Directors to be on men able to pay; what proportion of them is on men whose ability to pay is doubtful; and what portion is on men unable to pay; they shall, also, show the amount and character of the manufactures of the company, which shall be sworn to by

Annual report of the condition of the company to be made.

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said President, and deposited by him in the office of the Clerk of the Franklin County Court, where the same shall be by the Clerk safely preserved; and the President shall, also, place a copy thereof in the office of the Secretary of State, in which it shall be preserved by the Secretary.

Approved January 28, 1839.

CHAP. 1079.—AN ACT to change the time of holding the Carter and Pike County Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, the County Courts for Carter county shall be held on the second Monday instead of the first Monday in every month, except the months in which Circuit Courts are held in said county; and the County Court of Pike county shall be held on the fourth Monday in every month; this act to be in force from and after the first day of March next.

Approved January 28, 1839.

CHAP. 1080.—AN ACT to amend the charter of the city of Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Mayor and Council of the city of Louisville, to cause the city assessment of property for taxation to be made as of the tenth of January, in each year, instead of the first of March as now provided for.

Approved January 28, 1839.

CHAP. 1081.—AN ACT for the benefit of the heirs of John C. Self.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the administrator of John C. Self to confirm the sale of a negro man slave, the property of said Self, which descended to his heirs, and which was sold by Franklin Bowles, who intermarried with the widow of the said Self, on account of the repeated attempts of the said slave to runaway, and for said administrator and said Bowles to invest the proceeds of the sale of said slave in land, in the name of the children of said Self, in the State of

Sale of a
slave may be
confirmed.

Proceeds of
sale, how to be
vested.

Missouri, at the Congress price; and when so invested, the said Bowles shall, in right of his wife, be entitled to the use of one third of said land, during the life of his wife: provided, that the administrator of the said Self shall take bond and surety from the said Bowles, so to invest the proceeds of the sale of said slave before he shall confirm the sale: and, provided further, that the administrator shall be responsible, on his bond, should he take insufficient security of said Bowles.

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Proviso.

Proviso.

Approved January 28, 1839.

CHAP. 1062.—AN ACT to legalize the proceedings of the Court of Assessment of the 16th Regiment of Kentucky Militia.

WHEREAS, it is represented to the present General Assembly, that the Court of Assessment for the sixteenth Regiment of Kentucky Militia, held their session on the first Monday in November last, instead of the time fixed by law, and that the acts and proceedings of said Court at said session are void in law—wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the acts and proceedings of said Court, at the said session in November last, shall be, and the same are hereby, declared valid in law, and shall have the same force and effect as if the same had been held at the time fixed by law.

Approved January 28, 1839.

CHAP. 1083.—AN ACT releasing James Squires from all liability upon his bond executed to the Quartermaster General, for arms in the year 1833.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James Squires be, and he is hereby, released from all liability upon his bond, executed to the Quartermaster General for arms, in the year eighteen hundred and thirty three.

Approved January 28, 1839.

CHAP. 1084.—AN ACT for the benefit of Harmon Hurst.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so soon as a copy of an original survey for three hundred acres of land, made on the eighteenth day of Register to
receive a copy
of survey, &c.

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Proviso.

November, eighteen hundred and thirty six, in the name of Harmon Hurst, shall be filed with the Register of the Land Office, accompanied by the affidavit of said Harmon Hurst, that the original survey is lost, it shall be the duty of the Register to receive and file said copy of survey and affidavit, and to issue a patent thereon to the said Harmon Hurst, as though the original plat and certificate were filed: provided, however, that nothing herein contained shall be construed to affect any other valid or better claim to said land in law or equity.

Approved January 28, 1839.

CHAP. 1085.—AN ACT to authorize the Register of the Land Office to register certain plats and certificates of survey made in Warren county in 1838.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Register of the Land Office be, and he is hereby, authorized and required to receive into his office, and register, all surveys made in Warren county since the first of January, eighteen hundred and thirty eight, approved of by the County Court of said county, and recorded by the Clerk of said Court, and certified by him according to the provisions of an act to appropriate the vacant lands in this Commonwealth, north and east of the Tennessee river, to the counties in which they lie, for the purposes of internal improvement, approved February fourteenth, eighteen hundred and thirty five, on which surveys grants may issue according to the terms and provisions of the above recited act.

Approved January 28, 1839.

CHAP. 1086.—AN ACT for the benefit of Joseph Allen.

Auditor to
issue duplicate
warrants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Auditor of Public Accounts to issue to Joseph Allen, Clerk of the Breckinridge Circuit Court, duplicate warrants for the sum of forty dollars, and one hundred and sixty eight dollars, dated December eighteenth, eighteen hundred and thirty seven, on the said Allen's filing with him an affidavit that he has not assigned said warrants, and that they are lost or mislaid, so that he cannot obtain the amount due on them from the Treasurer.

Approved January 28, 1839.

CHAP. 1087.—AN ACT for the benefit of the Sheriff of Adair county.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts issue to John Montgomery, Sheriff of Adair county, a warrant for three dollars eight and a half cents, the amount of his delinquent list of revenue tax for the year eighteen hundred and thirty eight; and that he also issue to said Montgomery a warrant for thirteen dollars six cents, the amount paid by said Sheriff for taxes contained in the Auditor's additional list, transmitted to said Sheriff in the year eighteen hundred and thirty eight; and that said Sheriff be allowed further time until the first day of July next, to return to the Auditor the delinquents in said additional list, and to pay into the Treasury the amount which he may collect thereon.

Auditor to issue a warrant to Sheriff.

Further time to return delinquent list.

SEC. 2. That the said John Montgomery shall have further time until the first day of July next to advertise and forfeit the lands contained in the Auditor's additional list, charged to him for the revenue of eighteen hundred and thirty eight, the said lands to be forfeited for the taxes due for the year eighteen hundred and thirty six: provided, that the securities, in said Sheriff's official bond, by writing, under their proper hands, on or before the fifteenth day of February, eighteen hundred and thirty nine, consent to the indulgence hereby extended to said Sheriff.

Further time given to advertise and forfeit lands.

Approved January 28, 1839.

CHAP. 1088.—AN ACT giving to officers and crews, and mechanics, and others, a lien on Steamboats.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all the officers of steamboats, except the Captain, also the firemen, and owners of firemen, together with the mariners, and other hands, on all steamboats, within the jurisdiction of this Commonwealth, shall have a lien for their wages on the boat, her engine, tackle and furniture, and a preference over any and all other debts due from the owners; and steamboats built, repaired and equipped within this Commonwealth, shall be liable for all debts contracted by the master, owner, or consignee thereof, on account of work, supplies, or materials furnished by mechanics, tradesmen, and others, for, and on account of, or towards the building, repairing, fitting, furnishing, or equipping, such steamboats, their engine, tackle, or furniture, and shall have preference over any and all other debts due from the owners, except the wages due the officers and crew aforesaid; and

Lien given.

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every steamboat coming within this Commonwealth, indebted on account of work done, supplies, or materials furnished by mechanics, tradesmen, and others, for, or on account of, or towards the building, repairing, fitting, furnishing, or equipping such steamboat, or engine, tackle, or furniture, shall be liable for the same, and the proceedings on all the liabilities aforesaid shall be *in rem*.

Remedy.

SEC. 2. That the Courts in chancery, in the several circuits in this Commonwealth, shall have jurisdiction to enforce the liens given by this act, upon bill filed, with appropriate allegations, supported by oath or affirmation; and the seizing of the boat, her engine, tackle, or furniture, shall be awarded in the same way and on the same conditions, that attachments are granted against absent defendants; and the master, owner, consignee, or other claimant, may replevy the boat, her engine, tackle, or furniture, by giving bond and security to have the boat, &c., forthcoming, or abide by and perform the decree as shall be directed by the Judge or Court awarding the attachment.

Proceedings.

SEC. 3. That the officers, firemen, and owners of the firemen, and mariners, and other hands having a lien, may be joint complainants to enforce the same; and mechanics, tradesmen and others, having liens or claims under this act, may be joint complainants; and any person or persons having liens or claims under this act may make the claim known by petition and affidavit, and the Court shall cause him to be made defendant, and he shall answer, without service of process, and set out his claim without making it a cross bill; and if sustained by the confession of the parties, or proof, he shall be allowed a claim therefor.

Steamboats
liable for injuries
done other
boats, &c.

SEC. 4. That steamboats shall also be liable, *in rem*, for injuries done to other steamboats, and flatboats, and other craft, from trespass or from negligence, and also from the trespass of the master, officers and crew, as such, on the property of others; and they may be proceeded against as provided in the preceding sections, and the Court shall have power to direct an issue and cause a jury to be impannelled to assess the damages.

Liens not to
be enforced af-
ter one year a-
gainst a pur-
chaser without
notice.

SEC. 5. That the liens given by this act shall not be enforced against a purchaser without actual notice, unless suit be instituted within one year from the time the cause of action accrued; but it shall be lawful for mechanics, tradesmen and others, having liens, to have notice thereof endorsed on, or attached to, the enrolment of the vessel, which endorsement shall operate as actual notice.

Approved January 28, 1839.

CHAP. 1089.—AN ACT to authorize Samuel Arnett to qualify as high Sheriff of Nicholas county.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Justices of the County Court of Nicholas shall hold a special term of said Court on the first Monday in February, eighteen hundred and thirty nine, for the purpose of enabling Samuel Arnett to qualify as high Sheriff of Nicholas county, and to transact all business connected with the qualification of said Sheriff, and his deputy or deputies; and the qualification of the said Arnett, on said day, shall be as effectual as if made at a regular term of said Court; but if, from any cause, said Arnett should not qualify on the said first Monday in February, it shall be lawful for him to qualify at the next regular term of the County Court of Nicholas.

Approved January 30, 1839.

CHAP. 1090.—AN ACT authorizing a change of venue in the case of the Commonwealth against Edward C. Wilkinson, Benjamin R. Wilkinson, and John Murdough.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Judge of the twelfth Judicial District, shall be, and he is hereby, authorized and required to hold a special term of the Mercer Circuit Court, for the trial of criminal cases, to commence on the fourth day of March next, and continue for, and during, twelve judicial days, if the business require him so to do.

Special term
in Mercer.

SEC. 2. That it shall be lawful for the Jefferson Circuit Court, and the Police Court of the city of Louisville, respectively, on the appearance of Edward C. Wilkinson, Benjamin R. Wilkinson, and John Murdough, in discharge of their respective recognizances, entered into in said courts by reason of indictments therein preferred against them for murder and assault and battery, and upon the said accused persons, and each of them, directing, in open court, their election and consent to be entered of record, to make an order changing the venue of said cases to the Mercer Circuit Court.

Venue may
be changed to
Mercer, and
how.

SEC. 3. That when said order for the change of venue shall have been made, in conformity with the second section of this act, it shall be the duty of the Jefferson Circuit Court and Police Court, respectively, to require the said Edward C. Wilkinson, Benjamin R. Wilkinson, and John Murdough, respectively, to enter into recognizances, in such penalty, and with such surety or sureties, as may, in the discretion of said Judges, respectively, seem proper, conditioned for the appearance of the said Edward C. Wilkinson, Benjamin R. Wilkinson, and

Duty of Jef-
ferson circuit &
police court.

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Duties sheriff
of Jefferson.

Allowance
to sheriff.

Penalty on
clerks & sh'ffs
for failing to
perform their
duty.

Duty of clerk
Mercer.

Power and
jurisdiction of
Judge Mercer
circuit.

Witnesses to
be recognized.

John Murdough, severally, at the Circuit Court of Mercer county, on the said fourth day of March next; and it shall also be the duty of said courts to recognize the witnesses for the Commonwealth, in said cases, to attend at the said Mercer Circuit Court, on the said fourth day of March next; and when the said change of venue shall have been ordered, in compliance with the provisions of this act, it shall be the duty of the Clerks of said courts, respectively, and they are hereby required, forthwith, to transmit to the Clerk of the Mercer Circuit Court the indictments against said Wilkinsons' and Murdough, and likewise all bonds, writs, recognizances or other papers filed in said cases, together with full and complete copies of all orders made in said cases, by the Sheriff of Jefferson county, and the Clerks of said courts shall take from the Sheriff a receipt for the papers so to him delivered, and it shall be the duty of said Sheriff, with all possible despatch, to deliver said papers to the Clerk of the Mercer Circuit Court, and take his receipt for the same; and upon said Sheriff producing said receipt to the Judge of the Jefferson Circuit Court, it shall be his duty to make an order allowing said Sheriff six cents per mile for each mile by him travelled, in going to, and returning from, said county of Mercer, which said allowance shall be paid out of the Treasury.

SEC. 4. That if either of said Clerks, or the Sheriff, shall fail or refuse to comply with, or perform the duties imposed upon them by this act, the party so offending shall be subject to a fine of one hundred dollars, to be adjudged against him, or them, by the Jefferson Circuit Court, upon motion by the attorney for the Commonwealth, upon reasonable notice being given of said motion.

SEC. 5. That the Clerk of the Mercer Circuit Court, upon receiving the papers in the said prosecutions, shall set the said cases for trial on the said fourth day of March, and issue venire facias, and subpoenas, for witnesses, as if the said indictments had been originally found in said Court; and the Judge of the Mercer Circuit Court, shall have as full and complete jurisdiction of said cases, and as plenary power to try and determine the same, as if the offences wherewith the said parties stand charged, had been committed in the said county; and it shall be the duty of said court, in his discretion, to make all such orders in said cases, that he might, according to law, make, where the indictments had been found in said court; and the Judge of the said Mercer Circuit Court shall, upon the finding of the jury, pronounce final sentence of condemnation or acquittal, or set aside the verdict or verdicts, that may be rendered on said trials, and grant a new trial or trials, if the justice of the case require it, in like manner as if the offences had been committed within the jurisdiction of said court. That the Judge of said Mercer Circuit Court shall be, and he is hereby, authorized and empowered to recognize the witnesses on the part of the Commonwealth, to appear, from time to

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time, as the said cases may be continued, and shall proceed upon all recognizances in the same manner as if the same had been entered into in said court, and in case the indictment, or indictments, heretofore found against the said Edward C. Wilkinson, Benjamin R. Wilkinson, and John Murdough, or either of them, shall be found defective, and quashed, or the judgment thereon arrested, the said persons, for that cause, shall not be discharged, but a grand jury shall be summoned, and the case or cases again submitted to them to be acted upon by them, as if the offence or offences had been committed within the jurisdiction of said court; and upon the finding of another indictment, or other indictments, the said parties shall be again put upon their trial, and the case or cases proceeded in, in all respects, as if the said offences charged had been committed within the jurisdiction of the said court. That the Sheriff, Clerk, and Jailor, shall perform all the duties pertaining to their respective offices, in the progress of said trial, as if the said cases had properly originated within the jurisdiction of said court; and witnesses attending the said Mercer Circuit Court, in consequence of this change of venue, upon recognizance or subpœna, shall receive the same compensation that is allowed by law to other witnesses going out of their counties upon legal process; that no number of continuances granted by the Judge of the said Mercer Circuit Court, at the instance of the Commonwealth, shall operate the discharge of the said Edward C. Wilkinson, Benjamin R. Wilkinson, John Murdough, or any one of them.

If indict's
are quashed
new ones may
be found, and
how.

Pay of wit-
nesses, &c.

Continuances
not to operate
as a discharge.

Approved February 1, 1839.

CHAP. 1091.—AN ACT to extend the powers of the Trustees of the town of Burksville.

WHEREAS, it is represented to the present General Assembly, that the Trustees of the town of Burksville are not allowed to assess more than sixty dollars tax per annum, upon the citizens of said town, therefore, great inconvenience arises— for remedy whereof,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Trustees of said town be, and they are hereby, authorized and empowered to assess an additional sum of one hundred dollars per annum, upon the property and persons living and residing in said town.

May levy an
additional tax.

SEC. 2. That the said Trustees shall be, and they are hereby, authorized and empowered to enforce the collection of the said additional sum of one hundred dollars, as is provided for in the original act, to which this is an amendment.

How collected.

SEC. 3. That the said Trustees shall have power to assess a tax on all the real estate of non-residents in said town; and

In relation to
non-residents.

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that the said Trustees shall have power and authority to enforce the collection of the same, by subjecting such estate, or so much thereof as will be sufficient to discharge such tax, to sale, provided that the owner, or owners, of such estate be allowed one year, from and after the sale, to redeem such estate, by the payment of the taxes, and all costs incurred, with interest thereon, and not otherwise: provided, that the estate of residents and non-residents, shall be subject to the same rate of taxation.

Approved February 1, 1839.

CHAP. 1092.—AN ACT to establish the town of Rochester.

Town established as laid off.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town which was laid off in county of Butler, upon the banks of Green and Muddy rivers, by James G. Pitts, Elzaphan Hamilton, and others, is hereby established upon the plan formed and laid down by said Pitts and others, proprietors thereof; and the said plan is hereby ratified and confirmed, and said town shall hereafter be called and known by the name of Rochester.

Trustees appointed,—term of office.

SEC. 2. That John Roberts, Elzaphan Hamilton, James G. Pitts, Dillard Duncan, and Hugh C. Reed, are hereby constituted and appointed Trustees for said town, who shall continue in office twelve months from and after the fourth day of March, eighteen hundred and thirty nine; and it shall be the duty of said Trustees to have the plan of said town recorded in the Clerk's office of the Butler County Court, as soon as practicable.

When, where and how, trustees are to be elected.

SEC. 3. That it shall and may be lawful for the free white male inhabitants of said town, over the age of twenty one years, to meet on the second Monday in March, in the year eighteen hundred and thirty nine, and every year thereafter, at such places as may be designated by the Trustees of said town, and choose, by vote, *viva voce*, five Trustees, to serve for one year thereafter, and until their successors are duly elected and qualified.

Clerk to be appointed, and his duty.

SEC. 4. That said Trustees shall appoint a town Clerk, who shall continue in office until the election succeeding his appointment, and in like manner each new board of Trustees shall appoint a Clerk to serve for the same time, whose duty it shall be to keep a fair record of the proceedings of the Trustees, and give public notice thereof, by an advertisement, in said town, at least ten days previous to any election of Trustees.

SEC. 5. That if the citizens of said town shall, at any time, hereafter, fail to have an election on the day appointed in this

act, that then, and in that case, the Clerk, or any Trustee, may, by giving ten days previous notice, have an election held for Trustees, which shall be as legal as though it had taken place on the day herein appointed.

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SEC. 6. That the Trustees of said town hereby appointed, and their successors in office, a majority of them concurring therein, shall have power to pass such by-laws for the government of said town, and the inhabitants thereof, as to them shall seem expedient and right, provided that they be not contrary to the laws and constitution of this State.

May pass by-laws.

SEC. 7. That the said Trustees, a majority of them concurring therein, shall have power to levy, and have collected annually, a tax on the property in said town, now subject to taxation by the revenue laws of this Commonwealth; and shall, also, have the power to levy, and collect, a tax, annually, off of the tithes of said town, provided it shall not exceed one dollar on each tithe, and fifty cents on each one hundred dollars worth of property, to be appropriated and laid out by them for the improvement of said town. They shall, also, have power to appoint an Assessor, annually, who shall be sworn to be faithful and impartial in the discharge of his duty; it shall be the duty of said Assessor to make out and furnish to the Trustees, at such time as they may appoint, the lists of taxable property of each individual in said town, with the value attached thereto; and, also, a list of the lots, and value thereof, which belong to individuals who do not reside in said town; said Trustees shall, also, have power to appoint a Collector, annually, to collect the taxes assessed on the taxable property and tithes in said town, who shall give bond and approved security to said Trustees for the faithful performance of his duty; and the said Collector shall have power to make distress and sale, if necessary, in the same manner as is now authorized by law in regard to Sheriffs in collecting the revenue and county levy in this Commonwealth; and said Trustees shall allow to said Assessor and Collector an adequate compensation for their services.

May levy & collect tax.

Assessor to be appointed and sworn, his duty.

Collector to be appointed, give bond, &c.

His power & duty.

SEC. 8. That should the office of Trustee, Clerk, Assessor, or Collector, for said town, become vacant, by death, removal, or otherwise, it shall be lawful for a majority of said Trustees, then remaining in office, to fill such vacancy, and the person filling such vacancy, shall continue in office until the ensuing annual election.

How vacancies may be filled.

SEC. 9. That whenever the Trustees of said town deem it expedient to construct a bridge across Muddy river, at or near its mouth, it may be lawful for them so to do: provided, it does not interfere with the navigation of said river, and for that purpose they shall be entitled to a writ of *ad quod damnum*, to ascertain the value of a suitable piece of ground for an abutment on the opposite side of said river.

May build bridge across Muddy river.

SEC. 10. That if the Trustees of said town choose to have said bridge constructed within ten years from and after the

Tolls for crossing bridge.

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passage of this act, they shall be entitled to collect, for the benefit of said town, the same rates of toll collected in such cases as contained in the fourteenth section of an act, approved February seventeenth, eighteen hundred and thirty six, entitled, an act to incorporate the Franklin Bridge Company.

Approved February 1, 1839.

CHAP. 1093.—AN ACT to provide a standard of Weights and Measures, for the several counties of this State.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the several County Courts, of this Commonwealth, on or before the first day of January, eighteen hundred and forty, to furnish, for the use of each county, a set of Weights and Measures, agreeable to the standard furnished by the General Government of the United States, and now in the possession of the Governor of this State; and all costs and charges attending which, shall be paid out of the county levy of such county.

County courts
to procure, and
when.

SEC. 2. That if any County Court shall fail or refuse to comply with the foregoing provisions of this act, each member thereof shall forfeit and pay the sum of five dollars for each and every court which shall pass after the first day of January, eighteen hundred and forty, until such county shall be so furnished, recoverable by presentment of a grand jury; and all such fines and forfeitures shall be appropriated as other fines and forfeitures are now by law directed.

Penalties on
county courts
for failure, and
how to be re-
covered.

SEC. 3. That for the purpose of supplying the several County Courts with the Weights and Measures required by this act, of the same workmanship and standard, the Governor of this Commonwealth is authorized and requested to cause one set of Weights and Measures, for each county in the State, to be manufactured at the Penitentiary agreeable to the standard in his possession, furnished by the government of the United States, and to agree with the Keeper of the Penitentiary for making the same, and the price thereof, and make known, through the public papers, when the same shall be ready for delivery and the price to each county.

Governor au-
thorized to have
them made at
Penitentiary.

Approved February 1, 1839.

CHAP. 1094.—AN ACT in relation to the roads in Clay, Perry, Knox, Laurel, Whitley, and Hazan counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the County Courts of

Clay, Knox, Laurel, Whitley, Harlan, and Perry counties, respectively, to reduce the width of such roads, in said counties, as they shall believe are not of sufficient importance to be kept open and improved in the manner now required by law: provided, that the width of no road shall be reduced below five feet; and the County Courts, in said counties, shall, in the establishing, or in the order reducing or increasing the width of each road, direct what width it is to be opened and improved.

Approved February 1, 1839.

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CHAP. 1095.—AN ACT for the divorce of Adam R. Walker.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Adam R. Walker and his wife, Malinda M. Walker, be and the same is forever dissolved, and the said Adam R. Walker is hereby restored to all the rights and privileges of an unmarried man.

Approved February 1, 1839.

CHAP. 1096.—AN ACT allowing two additional Justices of the Peace to Oldham county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be two additional Justices of the Peace allowed to Oldham county.

SEC. 2. That the County Court of Oldham county shall, at their April or May terms, or so soon thereafter as a majority of all the Justices in commission be present, proceed to elect two suitable persons for that office, in pursuance of the first section of this act.

Approved February 1, 1839.

CHAP. 1097.—AN ACT to amend the charter of Centre College.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Centre College of Kentucky, located at Danville, be amended as follows: that hereafter the number of Trustees of said College shall be nineteen, six of whom shall constitute a quorum for the transaction of business.

Approved February 1, 1839.

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CHAP. 1098.—AN ACT further to enforce the payment of State dividends declared by certain incorporated companies, and for other purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of each Turnpike, Railroad, or Bridge Company, to make a semi-annual statement and settlement of the affairs of the company on the first of January and July, in each year, setting forth, distinctly, the gross amount of tolls received, and each item of expenditure out of the same, whether for repairs and other incidental expenses, or for previous debts, and also the outstanding debts against the company, and transmit to the Auditor of Public Accounts, within ten days thereafter, a copy thereof; and shall, moreover, make a dividend of the profits, should there be any profits which ought to be divided, and cause the same to be paid over to the Stockholders, and to the Treasurer of the Commonwealth, the part she is entitled as a stockholder in such company, within twenty days thereafter. They shall, also, in the semi-annual statement of the company, to be filed with the Auditor as aforesaid, insert the name of the Treasurer of the company, and also file a copy of his bond with their statement and settlement.

Sec. 2. That if any Turnpike, Railroad, or Bridge Company, shall fail or refuse to make a semi-annual statement and settlement as aforesaid, and to transmit a copy thereof to the Auditor, as herein prescribed, with a copy of the Treasurer's bond, as herein required, or shall fail or refuse to cause the dividends, belonging to the Commonwealth, to be paid into the Treasury by the day herein prescribed for the payment of the same, it shall be the duty of the Auditor of Public Accounts, on the third day of any subsequent Court, to move said Court to fine the company for the first named neglect or failure, the sum of five hundred dollars, and said company and the Treasurer thereof, the sum of five hundred dollars for the second named neglect or failure; and said Court shall have jurisdiction to render judgment, in such case, without notice or service of process; provided, that if the name and if the bond of the Treasurer be not returned as required, the judgment shall be against the company alone; and, provided further, that if the return be not made to the Auditor, and the dividends paid to the Treasurer, that the Attorney General shall apply to said Court for a rule against the Company, to show cause why the semi-annual statement and settlement of the affairs of the Company, with the name of the Treasurer, and a copy of his bond, had not been filed with the Auditor, as required by this act; and for a rule against the company and the Treasurer to show cause why the payment of the dividends belonging to the Commonwealth had not been paid into the Treasury, as required by this act; and on the return of the rule, the Court shall cause the statement and settlement to be made by the

Semi-annual statement and settlements to be made, when and how.

To transmit copy to Auditor, and dividends to be paid over.

Penalty for failure, & how recovered.

Provide.

At'ney Gen. to have rule against company for failing to make settlements and pay dividends

company, and filed with the Auditor, and the dividends belonging to the Commonwealth, to be paid into the Treasury, as required by this act; and the Court shall cause said company and Treasurer, as the case may be, to pay the costs of the proceeding, and enforce the requirements of this act by attachment.

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Duty of the
court upon re-
turn of the rule.

Approved February 1, 1839.

CHAP. 1099.—AN ACT to amend the charter of St. Joseph's College.

WHEREAS, by the act incorporating St. Joseph's College, the Bishop of Bardstown, for the time being, is constituted Moderator of the Board of Trustees for said College, and no provision has been made in said act in case of the absence, sickness or inability of the Bishop to attend said Board—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That in case of sickness, absence, or inability to attend said Board, the Bishop of Bardstown be, and he is hereby, authorized and empowered to constitute and appoint a Moderator for said Board; and said Moderator shall continue in office during such sickness, absence, or inability, and no longer; but whenever the Bishop or Moderator, for the time being, shall die, then the last Moderator appointed by the Bishop, shall perform the duties of Moderator until another Bishop shall be duly appointed and installed.

Approved February 1, 1839.

CHAP. 1100.—AN ACT to amend an act, entitled, "an act to amend an act incorporating the town of Steamport, in the county of Henderson."

Be it enacted by the General Assembly of the Commonwealth of Kentucky, The said Harmon, or the Trustees of said town of Steamport, be, and they are hereby, allowed until the first day of May, eighteen hundred and thirty nine, to have said plat recorded as required by the act to which this is an amendment.

Approved February 1, 1839.

CHAP. 1101.—AN ACT to change a part of the State road from Brandenburg to Bowlinggreen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James Drury be, and he is hereby, em-

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powered to make an alteration in so much of the State road, leading from Brandenburg to Bowlinggreen, as runs through his lands, provided he makes such alteration, at his own expense, upon as good ground as it is now on, and does not increase the distance thereof, any law to the contrary notwithstanding.

Approved February 1, 1839.

CHAP. 1102.—AN ACT for the benefit of Maria Waller, an Idiot.

Committee
may petition for
sale of idiot's
real estate.

Power and
duty of the
court.

Com'r to be
appointed and
give bond.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John Waller, committee of Maria Waller, an idiot, be and he is hereby authorized to file his petition in chancery, in the Union Circuit Court, alledging therein, that the said Maria inherited, by the death of her father, Thomas Waller, one tenth undivided interest in a tract of land, containing two hundred acres, in Union county, and also one tenth part of one seventh undivided interest in a tract of land containing six hundred acres, in the county aforesaid; and that if the same should be divided amongst the several claimants, it would greatly lessen the value of the entire tracts; and that said undivided interests are unproductive, &c., and upon the filing of said petition, said Court may award all such process, direct all such enquiries, and appoint such Commissioners as shall seem proper; and upon the final hearing thereof, if said Court shall be of opinion that it would advance the interest of said idiot to sell said undivided interest, said Court is hereby authorized to render a decree for the sale thereof, appointing the said John Waller a Commissioner to sell and convey said undivided interests, upon such terms, conditions and credits as shall seem to said Court just and equitable, requiring bond, with approved security, from said committee, for the faithful disbursement and application of the proceeds of the sale of said interests, to the support and maintenance of said idiot, so far as the same may be necessary, and to preserve the residue, and pay the same to those who may be entitled thereto.

Approved February 1, 1839.

CHAP. 1103.—AN ACT for the benefit of John Griffith, guardian of the heirs of John Conway, jr., deceased.

WHEREAS, it is represented that John Griffith, as guardian of the heirs of John Conway, jr., deceased, with the amount of

the administrator and widow of the deceased, sold a negro woman, belonging to the estate of said Conway, by the name of Harriet, on account of her vicious and ungovernable disposition, and has petitioned the present Legislature to have said sale legalized—therefore,

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the sale of said slave Harriet, made by said John Griffith as aforesaid, be, and the same is hereby, legalized and confirmed as fully and completely as if the same had been made under the authority of a legislative enactment previously obtained.

Sale of slave made valid.

SEC. 2. That the widow of said John Conway, jr., in conjunction with her present husband, Samuel Smith, may file a bill in chancery, in the Nicholas Circuit Court, against the administrator and heirs of said Conway, and said Griffith, as their guardian, praying said Court to assign her dower out of the proceeds of the sale of said slave; and the said Court is hereby authorized and required to entertain jurisdiction of the same, and to decree her a portion of said fund, equal to what her dower right in said slave was reasonably worth, in lieu of her dower in the slave; and said Court may permit said infants to answer by their statutory guardian, and make such order and decree in the cause as the rights of the parties and the justice of the case require.

Bill may be filed in chancery, & for what purpose.

Approved February 1, 1839.

CHAP. 1104.—AN ACT to repeal an act, entitled, an act to incorporate the town of West Point, and for other purposes.

WHEREAS, a majority of the citizens of the town of West Point, in Hardin county, have petitioned the present Legislature for the repeal of an act, entitled, “an act to incorporate the town of West Point, and for other purposes,” approved the sixteenth of February, eighteen hundred and thirty eight—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said act be, and the same is hereby, repealed.

Approved February 1, 1839.

CHAP. 1105.—AN ACT for the benefit of Charity Taylor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing

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between Charity Taylor and her husband, Benjamin Taylor, be, and the same is hereby forever dissolved, and the said Charity Taylor is hereby restored to all the rights and privileges of an unmarried woman.

Approved February 1, 1839.

CHAP. 1106.—AN ACT for the benefit of Matthew Elder.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, authorized to issue his warrant on the Treasurer, in favor of Matthew Elder, for one hundred dollars, for keeping Sarah Jamison, an idiot, for the term of two years, and the Treasurer is hereby directed to pay the same out of any money in the Treasury not otherwise appropriated.

Approved February 1, 1839.

CHAP. 1107.—AN ACT for the benefit of the Clerk of the Scott Circuit Court.

WHEREAS, it is represented, that in consequence of the destruction of the fee books of the Clerk of the Scott Circuit Court, when his office was burnt, in August, 1837, he has been prevented from listing his fees with the proper officers for collection, at the proper time—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said Clerk may list with the proper officers, on or before the first day of January, eighteen hundred and forty, all or any part of his fees, which accrued previous to January 1st, eighteen hundred and thirty eight; and the officer or officers with whom he shall list said fees, or any part of them, shall collect and account for them, in the manner and under the regulations now required by law, within six months from the time they shall be placed in his hands; and all such fees, so listed and remaining uncollected, may be re-listed in the manner and at the times now prescribed by existing laws, and shall have the same force and effect, that they would have had, if listed at the proper time.

Approved February 1, 1839.

CHAP. 1108.—AN ACT to change the bounds of the seventh division of the Kentucky Militia, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter, the thirty sixth Regi-

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ment of Kentucky Militia, as it is now bounded, shall be attached to the seventh Brigade, and be included in the bounds of the seventh division, which has been, for the last twelve years, commanded by Major General Thompson Ward; and the said Major General, who now lives in the bounds of the said thirty sixth Regiment, shall hold and retain his office of Major General, with all its immunities, from and after the date of his commission, which bears date the fifteenth December, eighteen hundred and twenty six, any law to the contrary notwithstanding.

SEC. 2. That the boundary between the sixty first Regiment, in Warren county, and the ninety fourth Regiment, in Barren county, shall hereafter be known and regulated between said Regiments, by the line between Warren and Barren counties, and the field officers of the ninety fourth Regiment shall take command of the Militia hereby added to their bounds, and organize them into one or more companies in their command, or attach them to other companies, as to them may seem best.

Line between
Warren and
Barren made
the line be-
tween 61st and
94th Reg'ts.

Approved February 1, 1839.

CHAP. 1109.—AN ACT for the benefit of the Sheriffs of Estill and Pendleton counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Samuel Kelly, Sheriff of Estill county, be and he is hereby allowed further time, until the first day of May, eighteen hundred and thirty nine, to settle with the Auditor of Public Accounts, and pay into the Public Treasury, the sum of two hundred dollars, part of the revenue due from said county for the year eighteen hundred and thirty eight; and that Martin Fugate, Sheriff of Pendleton county, be allowed until the first day of July, eighteen hundred and thirty nine, to settle with the Auditor of Public Accounts, and pay into the Treasury, the sum of five hundred dollars, part of the revenue due from said county, for the year eighteen hundred and thirty eight: provided, that they severally pay into the Treasury the remaining part of the revenue due from their respective counties, on or before the tenth day of February, eighteen hundred and thirty nine; and provided further, that their respective securities shall enter their assent of record in the Clerks' offices of their respective County Courts to this indulgence; and deposit with the Auditor of Public Accounts, on or before the said fourteenth day of February, eighteen hundred and thirty nine, a certified copy of such assent.

Approved February 1, 1839.

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CHAP. 1110.—AN ACT to change the place of voting in the Stamping Ground Precinct, in Scott county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the votes in the Stamping Ground Precinct, in Scott county, shall be taken at the Stamping Ground Hotel.

Approved February 1, 1839.

CHAP. 1111.—AN ACT for the benefit of the Sheriff of Madison county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of the county of Madison be, and he is hereby, allowed until the twentieth day of March next, to return to the proper authority, a delinquent list of the fines assessed in and for the nineteenth Regiment, for the year eighteen hundred and thirty seven; and the list, when so returned, shall have the same force and effect, and be entitled to the same consideration, as if said return had been made, as now required by law; and said Sheriff, if he makes the return as herein provided for, shall, and hereby is released from all liability or forfeiture which he may have incurred for a failure to make said return.

Approved February 1, 1839.

CHAP. 1112.—AN ACT for the benefit of the estate of Edmund Hall, deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the President and Directors of the Louisville and Nashville Turnpike Road Company, by way of Munfordsville and Bowlinggreen, to release Nancy Hall, and the estate of Edmund Hall, deceased, from the payment of five shares of stock, (being the one half of the number of shares, subscribed by said Hall, in his life time,) in the stock of said Company: provided, that the individual stockholders in said Company shall consent, in writing, to said release.

Approved February 1, 1839.

CHAP. 1113.—AN ACT for the benefit of the Mechanics of Maysville.

Lien given to
mechanics for
work, &c.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the carpenters, joiners, brick-masons, stone masons, plasterers, turners, painters, brick ma-

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kers, lumber merchants, and all others performing labor, or furnishing materials for the construction or repair of any building, within the city of Maysville, (journeymen excepted,) shall have a lien, to the extent of their respective interests, upon the building they may construct or repair, or towards the construction or repairing of which they may have furnished materials; and, also, upon the lot or tract of land upon which such building is situate; which lien shall extend to the interest of the employer or employers, in and to such building and lot or lands.

SEC. 2. That if such employer or employers hold or claim, by executory contract, and for any cause whatever such executory contract shall be set aside or rescinded, the lien herein given shall continue, so far as the person or persons to whom the estate shall come, or with whom it shall remain, by reason of such rescission or setting aside, shall be made richer by such building, repairing, or materials furnished.

Lien given against person remaining in or acquiring possession by rescission of contracts.

SEC. 3. That when the employer or employers shall, by judgment at law, or decree in equity, be evicted from the premises, and shall, by the rules of law or equity, be entitled to compensation from the successful claimant, for improvements made on the premises, the person or persons who, under the provisions of this act, have liens, as against such employer or employers, shall, to the extent of their liens respectively, be substituted for the persons evicted, and recover compensation from the successful claimant, so far as by law or equity such claimant is bound to make compensation to the person evicted.

Lien given against persons entitled to compensation for improvements in cases of eviction.

SEC. 4. That the lien herein declared shall exist against private corporations, private *quasi* corporations, and societies or trustees holding estates for charitable purposes, whether the building, repairing, or furnishing materials shall be done at the request of such corporation, *quasi* corporation, society or trustees, or by their servants or agents, authorized by parole or otherwise.

Lien to exist against private corporations, &c.

SEC. 5. That all and every person or persons claiming a lien in virtue of this act, within six months after the completion of the building, repairing, or furnishing materials, or within six months after the completion of work thereon, by order of him, her or them, against whom the lien is sought to be enforced, shall file in the Clerk's office of the Mason County Court, his, her or their accounts, specifying the lien claimed by him, her or them, which shall operate as notice to the world of such lien; and that no lien shall exist in favor of any person or persons, in virtue of this act, who shall not have filed such account within the time aforesaid, or proceed, by suit, to enforce said lien; in which latter case, the *lis pendens* shall be construed to commence from the filing of such bill.

In what manner persons claiming liens shall proceed.

SEC. 6. That the rules of equity for the time being, for the enforcement of liens, and the settling of priorities, shall govern in cases arising under this act, both as to all persons claiming liens in virtue hereof, and other claimants.

Rules of equity to govern proceedings &c.

Approved February 1, 1839.

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CHAP. 1114.—AN ACT to change the venue in the case of John D. Perkins.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for John D. Perkins to appear in the Livingston Circuit Court, in custody of the Jailer, on the first or second day of the next term thereof, and make his election to be tried in the Graves Circuit Court, for the crime with which he stands indicted, which election shall be entered on record; and thereupon it shall be the duty of the Livingston Circuit Court, to order the said John D. Perkins into the custody of the Sheriff of Livingston county, whose duty it shall be to convey him to the jail of Graves county, and deliver him into the custody of the Jailer of said county of Graves, for safe keeping, and said Sheriff shall have power to summon necessary guards, and procure suitable conveyances for the removal of said Perkins, and be paid for such services as Sheriffs are now paid for similar services, and the expenses to be paid as other fees out of the Treasury; and upon the indictment aforesaid, and proceedings had thereon, being certified to the Graves Circuit Court, as hereinafter provided, the said Graves Circuit Court shall take cognizance of said indictment, and every thing incident or appertaining thereto, as though the offence for which the said Perkins is indicted, had been committed in the county of Graves, and shall, in case he be found guilty, enter judgment and cause execution thereof, or grant a new trial, according to the justice of the case, as though the said indictment had originated in the said county of Graves; and the Jailer, Sheriff and Clerk of the Circuit Court of the said county of Graves, shall in like manner perform all the duties pertaining to their said offices, in relation to said indictment; and the Judge of the Livingston Circuit Court shall, upon the election of said Perkins to be tried in the Graves Circuit Court, recognize the witnesses on the part of the Commonwealth, to appear at the next term of the Graves Circuit Court, and the said last mentioned court shall proceed upon all recognizances in the same manner as though the same had been taken in said court; and in case said indictment shall be found defective, and shall be quashed, or the judgment arrested, the said Perkins shall not, for that cause, be discharged; but a special Grand Jury (if the regular Grand Jury shall have been discharged,) shall be summoned, and a new indictment found, if the evidence will warrant the finding of such an indictment; and the said Perkins shall be arraigned and tried thereon, in the same manner, and subject to the same judgment and execution, as though the offence had been committed in the county of Graves: provided, however, that nothing herein contained, shall be construed to require any proceeding on the part of the Judge, that would not be required of him in case the offence charged had been committed or charged to have been committed in the said county of Graves.

May elect to
be tried in
Graves, when
and how.

To be convey-
ed to Graves by
Sheriff.

Power and
jurisdiction of
Graves circuit
court.

Duty of jail-
er, clerk and
sh'ff of Graves.

Witnesses to
be recogniz-
ed.

If indictm't.
be quashed, a
new one may
be found, &c.

SEC. 2. That it shall be the duty of the Clerk of the Livingston Circuit Court to make out full and complete copies of all the orders made in his court, in said prosecution, and forward the same, together with all other papers filed in his office, touching the same, by the Sheriff of his county, to the Clerk of the Circuit Court of Graves county, taking his receipt for the same; which duty shall be performed by said Sheriff, with all possible dispatch; and he shall be allowed six cents per mile, in going to and returning from said county of Graves, to be paid out of the Public Treasury, on certificate of the Clerk of the Circuit Court of Livingston county, that said services have been performed.

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Duty of cl'k
of Livingston.

Allowance to
Sheriff.

SEC. 3. That if either the Clerk or Sheriff of Livingston shall fail to comply with all or any part of the duties enjoined on them in this act, each of them shall be subject to a fine of one hundred dollars, recoverable by reasonable notice, or rule of court to that effect, in the Livingston Circuit Court, in favor of the Commonwealth; which fine or fines, sum or sums, shall be applied as other fines are now directed to be applied by law.

Penalty on
clerk & sheriff
for failing to
comply, &c.

SEC. 4. That the Clerk of the Graves Circuit Court shall issue a *venire facias*, subpoenas, and all other process, as though the prosecution had been commenced in the county of Graves.

SEC. 5. That the witnesses attending the Graves Circuit Court, in consequence of this change of venue, shall be allowed the same mileage in travelling to and returning from said court, as is directed by law.

Allowance to
witnesses.

SEC. 6. That any number of continuances granted at the instance of the Commonwealth, by the Judge of the Graves Circuit Court, on account of the non-attendance of witnesses, or for any other cause, shall not operate to the discharge or acquittal of the said Perkins.

Continuances
not to operate
a discharge.

Approved February 1, 1839.

CHAP. 1115.—AN ACT to incorporate the Trustees of the Rock Spring Church.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Trustees of the Cumberland Presbyterian Church, at Rock Spring meeting house, in Logan county, are hereby created a body corporate and politic, and that Henry L. Gillum, Silas Gilbert, John P. Freeman, William Sprout, and Michael Gilbert, Trustees thereof, or their successors, shall have full and complete power to sell and convey any lot, or lots, of ground which may now, or hereafter, belong to said Church, and also to buy and receive conveyances for any lot, or lots, of ground necessary as a site for said Church,

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which said lot, or lots, of ground shall pass to the successors of said Church: provided said lot of ground, so acquired, shall not exceed five acres.

SEC. 2. That the members of said Church shall have the power, at any time, to remove the Trustees, or any part of them, and appoint, in case of vacancy, by removal, resignation or in any other way, others in their stead.

Approved February 1, 1839.

CHAP. 1116.—AN ACT in relation to the registration of Mortgages and Deeds of Trust.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act no Mortgage or Deed of Trust shall take effect, (except between the parties to such Mortgages or Deeds of Trust,) until the same shall have been duly acknowledged or proven, and actually lodged with the proper Clerk to be recorded.

SEC. 2. That it shall be the duty of the Clerk, upon a Mortgage or Deed of Trust having been lodged for registration, forthwith to place the names of the parties to such deed, upon the index of the proper deed book in his office. This act shall not take effect until the first day of August next.

Approved February 1, 1839.

CHAP. 1117.—AN ACT for the benefit of Nancy Collins

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Nancy Collins and her husband, Edward Collins, be, and the same is hereby, forever dissolved, so far as it relates to said Nancy Collins, and she is hereby restored to all the rights and privileges of an unmarried woman.

Approved February 1, 1839.

CHAP. 1118.—AN ACT to change the place of voting in an Election Precinct in Cumberland county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the

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place of voting in the election precinct, on Kettle creek, in Cumberland county, be, and the same is hereby, changed from from the house of Adam Short, to the house of Abraham Spears, between the waters of Kettle and Sulphur creeks, and that the same be called Spears' precinct; and all elections hereafter held in said precinct, shall be conducted according to the laws now in force upon the subject of elections.

Approved February 1, 1839.

CHAP. 1119.—AN ACT altering a Constable's district in Wayne county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Constable's district, south east of Monticello, in Wayne county, in which Richard M. Haydon is now acting Constable, shall be bounded as follows, to-wit: beginning at Moodies' oil mill, thence to William Simpson's, including him, thence to Jacob Vanhoozier's present residence, thence to Thomas J. Jones', thence to Martin Beatty's, thence to Benoni Mills', thence south with the dividing ridge between Elk spring valley and Sinking creek, to Claiborn Gregory's, thence to Silas Shepherd's, thence to Harvy Chrisman's, thence to Absalom Mifflin's, thence down Beaver creek to John Jones', and thence to the beginning.

Approved February 1, 1839.

CHAP. 1120.—AN ACT to change the name of Green Ruby, to that of Green Kerley.

WHEREAS, it is represented to the present General Assembly that in an act entitled, 'an act to amend the act further to regulate the Wilderness turnpike road, approved January twenty seven, eighteen hundred and thirty eight, Green Ruby was, by mistake, made a Commissioner of said road, instead of Green Kerley; that there is, and was at the time of the passage of said act, no such person as Green Ruby in the county of Madison, and that Green Kerley, of said county, had discharged the duties by said act imposed—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Green Kerley be appointed a Commissioner on said road, for the purposes in said act expressed, and that all his acts as such, in pursuance of the authority therein given, be, and the same are hereby, legalized.

Approved February 1, 1839.

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Trustees term
of office, and
powers, &c.

Power to a-
mend this char-
ter reserved.

SEC. 3. That the Trustees, hereby appointed, shall continue in office one year from and after the passage of this act, and until their successors are duly elected. Five of said Trustees shall form a quorum to transact any business which said Trustees are hereby authorized to transact; and in the absence of the President they shall have power to appoint one (*pro tempore*;) said Trustees shall keep, or cause to be kept, at all times, a fair record of their proceedings, their by-laws, changes and regulations they may think proper to make, from time to time. They shall, also, have power to enforce the collection of all subscriptions for tuition in said Academy, from time to time, if it should become necessary. The Legislature hereby reserving the right, at any time hereafter, to alter or amend this charter,

Approved February 1, 1839.

CHAP. 1126.—AN ACT for the benefit of the Spencer County Seminary.

Preamble.

WHEREAS, it is represented to the present General Assembly that six thousand acres of land, in the district west of the Tennessee river, was granted to the Spencer County Court, by an act of the General Assembly, passed and approved February twenty fourth, eighteen hundred and thirty four, and the rents and profits of which were to be applied to the purposes of education and no other: and, whereas, it is represented that the rents and profits, of said land, cannot be of any advantage to said county, so situated, without further legislation—therefore,

Lands to be
sold and house
erected.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the Justices of said county, a majority being present and concurring therein, to sell any part or all of her Seminary land and apply the proceeds thereof to the purchase of a suitable situation for her Seminary, and the building of a house, out of lasting materials, upon such plan as may be agreed upon by said court, within one half mile of the court house in the town of Taylorsville, and the balance of the money, if any, to the purposes of education.

Powers to
sell & convey.

SEC. 2. That it shall and may be lawful for said County Court, by an order entered of record in open court, a majority being present and concurring therein, to appoint a commissioner to make sale of said land, upon such terms and conditions as said court, by its order, may direct; and it shall and may be lawful for said court to authorize and empower said commissioner to convey said land, when sold, to the purchaser or purchasers, by deed or deeds of conveyance.

Pay of Com'rs.

SEC. 3. That it shall be the duty of the County Court to make her agent such allowance for his services and expenses,

in attending to the business, as she may think just and right, to be paid out of the proceeds of the land, or out of the county levy of said county.

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Approved February 1, 1839.

CHAP. 1127.—AN ACT giving Harris W. Thomson, late deputy Sheriff of Greenup county, further time to return his delinquent list of muster fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Harris W. Thomson, late deputy Sheriff of Greenup county, shall be allowed until the next Court of Assessment, to be held in said county, to return his delinquent list of muster fines; which said list, the said Court shall receive, and be governed in all respects, in allowing, as if the same had been returned in the time prescribed by law.

Approved February 1, 1839.

CHAP. 1128.—AN ACT for the benefit of the Lunatic Asylum.

WHEREAS, it is necessary for the preservation of the buildings pertaining to the Lunatic Asylum, as well as the lives of the lunatics confined therein, that the Trustees of the Asylum shall have under their control a fire engine and hose—therefore,

Preamble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said Trustees shall be and they are hereby authorized to purchase a fire engine and hose; and to enable them to pay for it, the Auditor of Public Accounts is hereby directed, on the application of the chairman of the board of said Trustees, or his authorized agent, to make his warrant on the Treasurer of the State for any sum not exceeding sixteen hundred dollars.

Trustees to purchase fire engine & hose.

Appropriations for.

SEC. 2. That it shall be the duty of said Trustees, to procure said engine and hose as soon as it can be conveniently done, and to keep it on the public grounds of the Asylum, ready and in good order to be used at any time required.

Engine and hose to be procured and kept at the asylum.

SEC. 3. That the said Trustees shall, in their annual report, exhibit in their account the costs and charges necessarily expended under this act.

Costs to be reported.

SEC. 4. That it shall be the duty of the fire companies and citizens of the city of Lexington to attend, at all times, to the preservation of the public buildings on the grounds, allotted to said Asylum, from fire, in the same manner and under like penalties and rules as they are required to the other buildings

Fire companies to attend and extinguish fires.

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Money not
to be drawn till
a fire company
is organized.

of the city: provided, before the money aforesaid shall be withdrawn from the Treasury, the Trustees of said Asylum shall certify, under oath, to the Auditor, that a fire company has been organized sufficient to manage and take care and keep said engine and hose in good order to work it in case of fire.

Approved February 1, 1839.

CHAP. 1129.—AN ACT for the benefit of Mason W. Sherill.

To be furnished with Digest, &c.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Secretary of State be and he is hereby authorized and directed to purchase and deliver to Mason W. Sherill, Esq., a Justice of the Peace in Green county, a copy of Brown & Morehead's Digest of the statute laws of this State, and to furnish him with such copies of the Acts of Assembly as may be in his office, and which can be furnished with convenience from his office, so as to make a complete set for the use of said Justice; which Digest and Acts the said Justice shall preserve and deliver over to his successor as now required by law.

To be paid for out of the Treasury.

SEC. 2. That for the purpose of purchasing the copy of the Digest aforesaid, the Secretary shall apply to the Auditor of Public Accounts, who shall issue his warrant on the Treasury for the price of said Digest, which shall be paid out of any money in the Treasury not otherwise appropriated.

Approved February 1, 1839.

CHAP. 1130.—AN ACT to authorize a sale of the Seminary lands of Wayne county.

Lands to be sold and proceeds applied to common schools.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Trustees of Wayne County Seminary shall be and are hereby vested with authority to sell and convey the Seminary lands, belonging to said county, upon such terms as they may deem expedient, and apply the proceeds of such sale, from time to time, to the use of the Common School of said county, and to that end shall pay over the proceeds of such sale, after deducting all expenses attending the sale, to the school commissioners of said county, to be by them applied as hereinafter directed: provided, that such sale shall not be made unless all the Trustees shall unite in making said sale and conveyance.

Proviso.

Money, how distributed.

SEC. 2. That the school commissioners of said county shall make an equal distribution of the proceeds of the Seminary

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lands among the several school districts in said county, in proportion to the number of children in the several districts between the ages of seven and seventeen; and if the said county shall not have been completely districted, or if any of the districts shall not have adopted the Common School system, or shall not have been organized, then it shall be the duty of the school commissioners to retain in their hands the due proportion of the districts so not laid off or organized, and make distribution of only so much of the Seminary funds as would be the just proportion of the districts which shall have been organized. And as other districts shall, from time to time, adopt the school system, and organize as provided by law, they shall respectively be entitled to their due proportion of said funds: provided, however, that when any of the said school districts shall have organized in all other respects, except building a school house, it shall be competent for the school commissioners to appropriate towards building a school house, in each district, its due proportion of the funds aforesaid, or so much thereof as may be needed for that purpose.

SEC. 3. That it shall be the duty of the Trustees, when they shall pay over the funds aforesaid, to the school commissioners, to take their receipt therefor; and if the said Trustees shall fail to pay over said funds, when collected, the school commissioners may maintain a suit therefor in any court having jurisdiction of the like sums. All laws authorizing a sale of the Seminary lands of Wayne county, heretofore passed, are hereby repealed.

Money to be
paid over to
school com'rs.

Repealing
clause.

SEC. 4. That it shall be the duty of the County Court of Wayne county to appoint three fit persons as commissioners, who, or any two of whom, shall have authority to issue certificates to any person or persons who may desire to appropriate any of the public land, in said county, provided said applicant or applicants shall pay to said commissioners the full amount of the land so intended to be appropriated. And thereupon the surveyor of the county shall survey the quantity of land contained in the certificate for such applicant, and make return of his said survey as prescribed by law.

Vacant lands,
how sold, &c.

SEC. 5. That so soon as the Common School system shall have been adopted by said county, in whole or in part, said commissioners shall pay over to the Commissioners of Common Schools, upon their request, all sums of money which shall have, or may thereafter come to their hands, from time to time, for land sold, and take their receipt for the same; and if said County Commissioners shall fail to pay over the said money, upon demand, the School Commissioners may bring suit therefor, and recover the same in any court having jurisdiction of like sums; and the Common School Commissioners shall distribute all sums, received by them, among the several school districts which shall have adopted the Common School system, and organized as provided by law, in the same manner as prescribed in the second section in relation to the proceeds of

Proceeds of
vacant lands
appropriated.

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Seminary lands; and if any school district or districts shall not have organized, the proportions of such districts shall be retained in the hands of the School Commissioners, for the benefit of said districts, when they shall have organized, or subject to future disposition, by law, in case said districts shall fail to organize; and if the county shall not, in whole or in part, adopt the school system, the County Commissioners shall retain the proceeds of the lands sold, subject to future legislation. All laws appropriating the public lands of Wayne county to the use of the roads therein are hereby repealed.

Approved February 1, 1839.

CHAP. 1131.—AN ACT for the benefit of the Madison Troop of Cavalry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall hereafter be lawful for any number of men to join the Madison Troop of Cavalry, from either the seventh, nineteenth, or thirty fifth, Regiments of Kentucky Militia: provided, that the said Troop shall not, at any time, consist of more than sixty six privates: and, provided further, that no militia company, in either of the above Regiments, shall be reduced below the number fixed by law.

Approved February 2, 1839.

CHAP. 1132.—AN ACT to provide for the extension of the Lexington, Nicholasville and Danville turnpike road from Danville, and to unite the same with the Louisville, Bardstown and Springfield turnpike road, at Springfield.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said company shall have the further time of eight years, from the passage of this act, to avail themselves of the provisions of the before recited act, within which time they shall commence said road, and to complete the same within six years, after they shall have commenced said road.

SEC. 2. That said company shall have power and authority, with the approbation of the Board of Internal Improvement, to commence said road upon a less amount of subscription, by private individuals, than is required by said act, and may open said road, and grade such parts of it, and put metal upon such parts of it, as the Board may direct, charging only half toll for the travel on so much of said road as shall only be graded, and full toll on that part which shall be covered with metal.

Approved February 2, 1839.

CHAP. 1133.—AN ACT to allow an additional Justice of the Peace for Nelson county.

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WHEREAS, it is represented to the present General Assembly that the town of Bloomfield, in Nelson county, is destitute of a Justice of the Peace, in consequence of which the citizens of said town and its immediate vicinity are put to great trouble and vexatious inconvenience—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an additional Justice of the Peace shall be appointed and commissioned for the said county of Nelson.

Approved February 6, 1839.

CHAP. 1134.—AN ACT for the benefit of Elisha C. Hampton.

WHEREAS, Brison Pursley, Daniel M. White, George W. Noel, and L. Robertson, officers of the seventy sixth Regiment, seventeenth Brigade, of Kentucky Militia, did, on the fourteenth day of January, eighteen hundred and thirty three, execute to the Commonwealth a bond for seventy stand of muskets, bayonets and accoutrements, for the use of a Light Infantry Company in said Regiment: and, whereas, one of said muskets, bayonets and accoutrements, was consumed by fire in the house of Elisha C. Hampton, a member of the said Infantry Company—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the officers aforesaid shall be entitled to credit upon their bond, on settlement, for the value of one musket, bayonet and accoutrements, so destroyed by fire.

Approved February 6, 1839.

CHAP. 1135.—AN ACT to change the name of Jane Wright to that of Jane Dodd.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of Jane Wright, of Barren county, be, and the same is hereby, changed to that of Jane Dodd, and she shall, hereafter, be called and known by that name.

Approved February 6, 1839.

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CHAP. 1136.—AN ACT to repeal the law authorizing the County Court of Hardin to sell poor house land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, approved February twenty three, eighteen hundred and thirty five, entitled, an act to authorize the County Court of Hardin to sell their poor house land, be, and the same is hereby, repealed.

Approved February 6, 1839.

CHAP. 1137.—AN ACT for the benefit of the estate of Lewis Fible.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for Joseph Fible, administrator of Lewis Fible, deceased, to file his bill, in the Oldham Circuit Court, against the widow and heirs of said deceased, and alledge the amount of personal assets, and the debts against the estate which he has paid and for which he is bound, and of the other debts against the estate, and the land which descended; and the Court shall cause the accounts to be stated by a commissioner, and the debts against the estate to be ascertained; and if it shall appear to said Court, that it is necessary to sell the real estate for the payment of the debts, it shall be lawful for the Court to decree such sale, on reasonable credits, fixing in the decree the credits, and cause the same to be conveyed to the purchaser, and the proceeds to be applied to the payment of the debts: provided, that if the widow consents, her dower right may be sold, and the proceeds of her interest paid over to her; but if she claims dower, the Court shall cause it to be assigned to her; that after paying the debts, should there be any surplus of the proceeds, it shall be paid over to the heirs and distributees, or their guardians, on their giving bond and security for the same.

Approved February 6, 1839.

CHAP. 1138.—AN ACT to establish the town of Frederick, in Barren county.

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the town of Frederick, in the county of Barren, heretofore called and known by the name of Lafayette, be, and the same is hereby, established upon the plan which has been formed and laid down by the citizens

and original proprietors of said town, and the same plan is hereby ratified and confirmed, and the name is hereby changed from Lafayette to Frederick.

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SEC. 2. That the free white male inhabitants of said town, of the age of twenty one years, and upwards, shall meet at the house of Samuel W. Thompson, in said town, on the first Monday in May next, and annually, on the first Monday in May thereafter; and elect, by vote, *viva voce*, five fit persons for Trustees of said town, to serve for one year, and until their successors be duly elected; and the said Trustees shall take an oath, before some Justice of the Peace of said county, faithfully, and without partiality, to discharge the duties of their office.

How and when trustees are to be elected.

SEC. 3. That the said Trustees shall have power to appoint a Clerk of their board, and appoint one of their body Treasurer thereof, and to cause to be opened, streets and alleys in said town, for the convenience of the citizens thereof, and to enact such by-laws as they may, in their discretion, deem most expedient to preserve the peace and harmony of said citizens.

Clerk, &c. to be appointed.

By-laws.

SEC. 4. That the Trustees of said town shall have full power and authority to convey, by deed, any lot or lots in said town, or such as may hereafter be added to said town, upon the request of any person or persons who may have sold the same, and wish the title thereof conveyed; and such conveyance, by the Trustees of said town, shall pass all the title and interest in such lot or lots as may have been held by the person or persons wishing the same conveyed.

Trustees to convey lots.

Approved February 6, 1839.

CHAP. 1139.—AN ACT to incorporate the Bank Lick Turnpike Road Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be formed, under the name, style and title of the Bank Lick Turnpike Company, for the purpose of forming and maintaining an artificial road, on the McAdam plan, from Covington, by the Bank Lick road, to the top of the Dry Ridge, or as sometimes called, Workman's Hill, and as such shall be a body politic, and by that name and style shall be competent to contract and be contracted with, sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all Courts and places of this Commonwealth, with power to hold, use, possess and occupy all such real and personal estate as may be necessary and convenient for the site or route of said road, for piers or abutments of all such bridges as may be necessary on said road, and lots for toll houses and the residence of gate

Name and style, corporate powers, &c.

May acquire and hold real estate, &c.

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keepers, not exceeding one acre, at the site of each toll gate erected upon said road, agreeably to the provisions of this act; also, the necessary stone, gravel, sand and earth for the construction and repair of said road, and any and every other material necessary for the construction and repair of said road; and to have and use a common seal, and the same to alter and renew at pleasure; to make and ordain all such by-laws as may be necessary for the construction, formation and repair of said road, and the management of its prudential concerns, not contrary to the Constitution and laws of this Commonwealth, or of the United States.

Width and
grade, & how
to be construct-
ed.

SEC. 2. That the width of said road shall not be more than forty nor less than thirty feet, of which not less than sixteen feet wide, shall be made an artificial road, composed of stone, gravel, wood, or other suitable materials, well compacted and put together in a proper, suitable and workmanlike manner, and shall maintain and keep the same in repair; and in no case shall the ascent in the road be of a greater elevation than five degrees, and the streams bridged wherever it is necessary.

Capital stock.

SEC. 3. That the capital stock of said company shall be forty thousand dollars, to be divided into shares of fifty dollars each; and if it shall be ascertained that the amount of capital stock is not sufficient to accomplish the object of this act, then the President and Directors of said company may enlarge it to such amount as they may deem necessary, and open subscription therefor as they may think proper.

When, where
and by whom
books are to be
opened.

SEC. 4. That books, for the subscription of stock in said company, shall be opened in Covington, on the second Monday in May next, under the direction of John B. Casey, Robert Wallace, A. P. Howell, Frederick Gedge and John Perry, or some two or more of them, who are hereby appointed commissioners, and at the store of Elijah Williams, in Bagby precinct, under the direction of Elijah Williams, Robert Perry, Ezra K. Fish and Thomas Organ, or some two or more of them, who are also hereby appointed commissioners to open said books.

When, how
and where Pre-
sident and Di-
rectors are to
be chosen.

SEC. 5. That the books, for the subscription of said stock, shall be kept open during the pleasure of the President and Directors, or until the stock is all subscribed; and whenever one hundred and fifty shares of the capital stock shall have been subscribed, it shall be the duty of the commissioners, above named, or a majority of them, who may have received the subscription aforesaid, to call a meeting of all the subscribers to said stock, at the store of the above named Elijah Williams, in Bagby precinct, by advertisement, put up at the store of said Elijah Williams, and, also, by advertisement in some public newspaper, (if any,) published in Covington, for the space of not less than twenty days, for the purpose of organizing said company, by the acceptance of this charter, and by the election of a President and four Directors; at which election, at least three of the commissioners above named shall

be present, one of whom shall preside, and proceed to take the vote, by ballot, of said stockholders, who shall have the right to vote in person, or by proxy, under a power of attorney, satisfactorily authenticated; each stockholder having one vote for every share he holds for President and four Directors, who shall hold their offices for one year, and until others shall be duly elected and qualified.

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SEC. 6. That the commissioners appointed to open books for the subscription of stock, or any one of them, are hereby authorized and empowered to take a release of the grounds and right of way from persons through whose lands said road may pass, and be constructed, and, also, a grant of the materials that may be necessary to construct or repair said road; and that they shall be empowered to receive gratuitous donations of money or materials to the use of the company.

Release of right of way to be taken by the commissioners.

SEC. 7. That the aforesaid company shall commence the prosecution of their work on or before the first of May, eighteen hundred and forty five.

When work is to commence

SEC. 8. That it shall be lawful for the President and Directors to contract with persons living along said road, and who may have occasion to pass frequently through the toll gates, for a reasonable sum, to be paid always in advance, in place of the legal toll; and it shall be the duty of the President to give notice of the same to the gate keeper, who shall enter the same in a book kept for that purpose; provided no such contract shall be made for a longer period than one year.

May permit persons to pay by the year.

SEC. 9. That the provisions of an act of Assembly, and its amendments, approved the twenty ninth of February, eighteen hundred and thirty six, entitled, an act to incorporate a company to construct a turnpike road from Porter's ferry, through Burlington, to Covington and Lexington turnpike road, except so far as said act may be local and inapplicable, shall be, and the same is hereby, enacted and adopted as applicable to the company incorporated by this act, except so far as they are modified by this act, and are made parts of this act, excepting, also, the thirtieth section of said act, which empowers the County Court to subscribe for stock in said company.

Act of incorporation of Porter's ferry and Burlington road adopted.

Approved February 6, 1839.

CHAP. 1140.—AN ACT to amend an act incorporating a company to turnpike the road from Greensburg, by way of Columbia, Jamestown and Monticello, to the Tennessee State line, in the direction of Knoxville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Columbia, Jamestown and Monticello Turnpike Road Company, be, and it is hereby authorized to construct a bridge across Green river, where the road from Greensburg to the Tennessee line, by way of Columbia, Jamestown and Monticello, in the direction of Knoxville, crosses it.

May erect a bridge across Green river.

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Proviso.

SEC. 2. That of the sum necessary for the construction of said bridge, the Board of Internal Improvement is hereby authorized to subscribe and pay two thirds, whenever one third shall be subscribed and paid by said Company: provided, that said Board shall be of opinion that said bridge is a work of sufficient importance and public utility.

Tolls.

SEC. 3. That the rates of toll authorized to be demanded and received, by an act incorporating the Franklin Bridge Company, approved February seventeenth, eighteen hundred and thirty six, shall be authorized to be demanded and received, for the travelling over the aforesaid bridge across Green river.

Board Internal Improv'mt not to subscribe to bridge if not so road.

SEC. 4. That this act shall not be construed to authorize the subscription of stock to said bridge, unless the Board of Internal Improvement shall subscribe stock in the road, and shall contemplate the improvement of said road, as is provided in the original charter.

Approved February 6, 1839.

CHAP. 1141.—AN ACT authorizing a survey of the road leading over Mount Scratchem, and Old Landing Hills, in Estill county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Board of Internal Improvement, during the year eighteen hundred and thirty nine, to cause a survey to be made by one of the Engineers in the service of the State, of the road leading from Irvine, in Estill county, to the Perry county line, and that an estimate be made of the amount necessary to improve that part of said road passing over Mount Scratchem and the Old Landing Hills, so as to render the road fit and convenient for the passage of wagons; which estimate, so made, shall be reported to the Board, so as to accompany the annual report of the Board to the General Assembly.

Approved February 6, 1839.

CHAP. 1142.—AN ACT for the benefit of the heirs of Elijah Cummins, dec'd.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, That Elijah Cummins, late of Hancock county, hath departed this life intestate, indebted in a larger amount than the value of his whole personal and mixed estate—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Absalom Wilson, administrator of the estate of the said Elijah Cummins, deceased, be, and he

is hereby authorized to file a petition in the Hancock Circuit Court, making the legal heir or heirs of said Cummins defendants thereto, alleging the circumstances and condition of the estate, and setting forth the amount of debts over and above that of the personal estate; and praying a sale of the lot and improvements of which the said deceased died seized, in the town of Hawesville, for the purpose of satisfying such excess.

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SEC. 2. That the allegations of said petition shall be sustained by proof, and be subject to the same proceedings that are had in cases in chancery praying for the sale of infants' real estate, devised or descended; and the court shall also appoint commissioners to value said lot and improvements, make any order on the said administrator to settle his accounts, and to give and establish by proof a schedule of the debts of the said deceased, and such information as said court shall deem to be necessary to enable the court to decide on the expediency of decreeing the sale of the said lot and improvements, for the purpose aforesaid.

Duty of the court before decree.

SEC. 3. That on the hearing of the said petition, if the court shall be of opinion that it is necessary to make a sale of the said lot, for the payment of the debts of the said deceased, the said court shall have full power to decree that the same be sold, on such terms, at such time and place, and upon the same having been advertised as long as the said court may deem right, and to appoint a commissioner to sell and convey the same; and the said court may permit the bond for the purchase money to be given to the said administrator, and the money collected by him, upon the said administrator executing bond and security, to be approved of by the said court, in double the appraised value of said real estate to be sold, conditioned to pay off and discharge the debts of the said deceased, out of the proceeds of said sale, as far as the same will extend, and if there should be any balance remaining, after discharging the debts of said deceased, to be paid to the legal heirs of said deceased, or their guardian.

Court may decree sale on certain terms.

SEC. 4. That the said administrator is directed to report and settle with said court, and show the amount of his disbursements, made out of the proceeds of said sale, and the balance, if any, due to the heirs, after paying the said decedent's debts.

Adm'r to execute bond.

Adm'r to settle his acc'ts.

SEC. 5. That the court may make such allowance to the commissioner and administrator, for any services they may perform by virtue of this act, and also may direct the costs of the said petition and sale to be paid out of the proceeds of said sale.

Court may make allowance to com'r.

Approved February 6, 1839.

CHAP. 1143.—AN ACT for the benefit of Ransom Lasswell, and others.

WHEREAS, Isaac Snodgrass did, on the eighth of November, eighteen hundred and twenty eight, execute a deed of trust to

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Ransom Lasswell and Samuel C. Carson, for certain estate named in said deed of trust, for the purposes of paying his debts, and securing the residue of said property to the use and benefit of his wife Jane, and her children; and whereas, it is represented that said Carson has refused to carry the trust into effect, so far as he is concerned; and whereas, it is further represented, that very much of said property is unproductive—therefore,

Bill in ch'ry
may be filed—
where and for
what purpose.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for Ransom Lasswell to file his bill in chancery, in the Rockcastle Circuit Court, setting forth the fact of the execution of the deed of trust, the refusal of his co-trustee to accept of, and comply with the trust, so far as he is concerned; that it would redound to the interest of the wife and children of said Snodgrass, that the trust property should be sold, and the proceeds vested in other more productive property; and to make the said Snodgrass, his wife Jane, and her children, and said Carson, defendants to said bill.

Court may
decree sale and
direct invest-
ment of pro-
ceeds.

SEC. 2. The said court may, if deemed advisable, upon the proper proof being made, that the interest of the *cestui que trusts* would be advanced and promoted by a sale of the trust estate, to decree and order that the whole or any part thereof be sold, and to order and decree in what manner the proceeds of the sale of such property shall be invested; that the court may render such decree at the first term after filing said bill: provided, the process shall have been executed upon the parties, ten days before the sitting of the court; may appoint a guardian *ad litem* to defend for the infant defendants, and to make such further orders as may be necessary to have the trust fully and properly executed by the trustee.

Bond to be
given, who by
and condition
thereof.

SEC. 3. That before any decree to sell said trust property shall be rendered, the court shall require said Lasswell to give bond, with approved surety, for the faithful investment of the proceeds of the sale, and in such penalty as the court may direct. The title of such estate as may be purchased by said Lasswell, under and by virtue of such decree, as trustee, shall be made to, and held by him, in trust, for the uses and purposes named in the deed of trust. The said court shall have power to render such decrees, and make such decretal orders, as may be necessary for the interest of the *cestui que trusts*.

Approved February 6, 1839.

CHAP. 1144.—AN ACT for the benefit of Mary Hughes, an infant.

WHEREAS, it is represented that Marcus Hughes, late of Montgomery county, died intestate, leaving Mary Hughes, an

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infant of tender years, his only child and heir; that he left a widow, who has since married Jesse Wilson; that said Marcus left a tract of land, lying in the county of Montgomery, containing about seventy five acres; that Mrs. Wilson is entitled to her dower in said land; that said Jesse Wilson is the guardian of said infant heir, and has been residing in the State of Illinois for some years, having the said infant with him: and whereas, it is represented that it would redound greatly to the benefit of said infant, that her interest in said land should be sold, and the proceeds applied in the purchase of lands in Illinois—therefore,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That said Jesse Wilson, as guardian of said Mary Hughes, may file his petition in the Montgomery Circuit Court, praying for a sale of the interest of said infant in seventy five acres of land, or thereabouts, laying in Montgomery, and the same owned by Marcus Hughes, at his death, and which has descended to said Mary.

Guardian may file petition, & for what purpose.

Sec. 2. That before rendering any decree, the Judge of said court shall require the said Jesse Wilson to execute bond with good surety, in such penalty as he may fix, conditioned to lay out the net proceeds of the sale of said land, in lands in the State of Illinois; and it shall be the duty of said Wilson to present for record, in the Montgomery Circuit Court, a properly authenticated copy of the legal conveyance to said Mary, for the land so to be purchased in Illinois: and provided, also, that the said Wilson purchase said land within the term of two years from the time of receiving the purchase money for the land hereby authorized to be sold: and provided, also, that the Montgomery Circuit Court may make such further orders and decrees as may be deemed proper in protecting the rights and interests of said Mary Hughes.

Duty of the court before decreeing sale.

Approved: February 6, 1839.

CHAP. 1145.—AN ACT to authorize the sale of a house and lot belonging to the heirs of Jacob Lyons, deceased, a man of color.

WHEREAS, it is represented to the present General Assembly, that Jacob Lyon, a free man of color, died some time since, possessed of a house and lot, in the town of Millersburgh, in Bourbon county, to which he held an equitable title, without leaving sufficient personal assets to pay his debts—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Alvin W. Bills, the administrator of said Lyon, be, and he is hereby authorized to file a bill in chancery, in the Bourbon Circuit Court, against the heirs of said Lyon, praying for the sale of said house and lot, for the payment of the debts of said decedent; and shall make such other person or persons,

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defendants thereto, as may be necessary, in order to perfect the title to said property; and upon a legal title being obtained for the same, by the decree of said court, or otherwise, the said court shall proceed to decree a sale thereof, on such terms as it may think reasonable and proper, upon being first satisfied that the same is necessary for the payment of the debts due by said decedent; and shall require bond, with sufficient surety or sureties, from such person as may be appointed by said court, to make sale of said property, in such penalty as shall be fixed by the same, payable to the heirs of said Lyon, conditioned for the faithful performance of the duties that may be required of him by said court; and said court shall have power and authority to make such order or decree, in said cause, as the justice of the case and the rights of the parties may require.

Approved February 6, 1839.

CHAP. 1146.—AN ACT for the benefit of Eliza Jane Grider.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Eliza Jane Grider, and her husband, William Grider, be, and the same is hereby forever dissolved, so far as relates to the said Eliza Jane Grider; and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Eliza Jane Higginbotham.

Approved February 6, 1839.

CHAP. 1147.—AN ACT for the divorce of Nancy A. Grant.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Nancy A. Grant, and her husband, Joshua D. Grant, be, and the same is hereby dissolved, so far as it relates to the said Nancy A. Grant; and she is hereby restored to all the rights and privileges of an unmarried woman.

Approved February 6, 1839.

CHAP. 1148.—AN ACT to authorize the Clerk of the Hancock County Court to amend certain records in his office.

WHEREAS, it is represented to this General Assembly that many deeds, recorded in the office of the Clerk of the County

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Court of Hancock county, are unfinished, and wanting the record of the certificates of the acknowledgments and records thereof, and others are but partially recorded, and given out to the individuals to whom they belong; all of which transpired before the present Clerk came into office—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Clerk of the Hancock County Court shall have power to add to all such deeds, such portions as may not be recorded, and remain unfinished, whenever presented; and if deemed advisable by the County Court of said county, may purchase new books, for the purpose of recording them anew; and all such records shall be as valid in law, and as good evidence, as if originally recorded, in proper form and manner; and the said Clerk may charge the same fees for such services, as is now given by law; and in cases where the said deeds are partially recorded, he shall have the same fees as for recording the entire deeds.

Approved February 6, 1839.

CHAP. 1149.—AN ACT to repeal an act, entitled, an act for the benefit of William M. Simmons, approved February 12, 1838.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act for the benefit of William M. Simmons, approved February twelve, eighteen hundred and thirty eight, be, and the same is hereby repealed.

Approved February 6, 1839.

CHAP. 1150.—AN ACT to repeal the fourth section of an act, entitled, an act to establish a State road from Flynn's old ferry, across the Ohio river, in the county of Livingston, to Princeton, in Caldwell county, and for other purposes, approved the 25th of February, 1836.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the fourth section of an act to establish a State road from Flynn's old ferry, across the Ohio river, in the county of Livingston, to Princeton, in Caldwell county, and for other purposes, approved the twenty fifth day of February, eighteen hundred and thirty six, be, and the same is hereby repealed.

SEC. 2. That the County Court of Livingston county, shall have full power and authority to change and alter the present location of said road, leading from Flynn's old ferry, in said county, to Princeton, in Caldwell county, or to discontinue and abolish the same at pleasure: provided, the public interest should at any time require the same.

Approved February 6, 1839.

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CHAP. 1151.—AN ACT for the divorce of Lucy Graves.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Lucy Graves, and her husband, Thomas Graves, be, and the same is hereby forever dissolved, so far as relates to the said Lucy Graves; and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name, of Lucy Phillips.

Approved February 6, 1839.

CHAP. 1152.—AN ACT for the benefit of Abraham Kightly.

WHEREAS, Abraham Kightly, of Oldham county, did, on the sixth day of April, eighteen hundred and thirty three, draw from the Public Arsenal, sixty four rifles, and part of the accoutrements that should have accompanied the same, and executed his bond to the Commonwealth, with security, for the safe keeping and delivery of the same, for a larger portion than was drawn by him, and the Quarter Master General having failed to deliver the number specified in said bond, or to credit said bond for those not delivered: and whereas, the said Kightly has returned to the Quarter Master General, sixty three rifles, thirty four pouches and belts, and a part of other accoutrements drawn by him—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said bond be cancelled, and the said Abraham Kightly, and his securities, are hereby released from all liabilities and penalties on said bond.

Approved February 6, 1839.

CHAP. 1153.—AN ACT for the benefit of William P. Neal, and others.

WHEREAS, William P. Neal, of Allen county, did, on the fifth day of September, eighteen hundred and twenty eight, execute a bond, with security, to the Commonwealth of Kentucky, for sixty four sabres and scabbards, sixty four pistols, &c.; and whereas, the Quarter Master General failed to deliver said arms, for which said bond was executed, anterior to his death, and the said bond being now in possession of his successor—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said bond be cancelled, and the said William P. Neal, and his securities, be, and they are hereby released from all liability and penalties concerning said bond.

Approved February 6, 1839.

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CHAP. 1154.—AN ACT to repeal all laws declaring Little river a navigable stream above Alexander's ford, and for other purposes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all laws declaring Little river a navigable stream above Alexander's ford, at the town of Cadiz, in Trigg county, be, and the same are hereby, repealed; and that all moneys heretofore appropriated by law, for the improvement of the navigation of said stream, or so much thereof as may be necessary, shall be expended on that portion of said river which is below Alexander's ford, aforesaid.

Approved February 6, 1839.

CHAP. 1155.—AN ACT for the benefit of Andrew Orr and Caroline Orr.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Trustees of the Deaf and Dumb Asylum, at Danville, upon the application of John Orr, of Garrard county, to admit into said Asylum, free of charge, Andrew Orr and Caroline Orr, children of said John Orr, as deaf and dumb pupils.

Approved February 6, 1839.

CHAP. 1156.—AN ACT for the benefit of Charles S. Gatewood, and others.

WHEREAS, Charles S. Gatewood, of Montgomery county, did, on the — day of —, obtain from the Quarter Master General, seventy stands of muskets, and other accoutrements, and executed his bond, conditioned as the law directs, with James Gatewood, as his security: and, whereas, the same arms have been used until the fifth day of September last, when a portion of them was consumed by fire, in a house in Mountsterling; and, whereas, the said Charles S. Gatewood has returned fifty seven stands of the same arms, to the Quarter Master General, and taken his receipt there-

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for: and, whereas, Jeremiah Terry, of Montgomery county, did, on the — day of —, obtain from the Quarter Master General — stands of pistols and swords, for a troop of Cavalry, and gave bond therefor, with Samuel L. Williams, and others, as his securities: and, whereas, by the fire in Mountsterling, on the fifth of September last, said arms were consumed—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said bonds be cancelled, and the said Charles S. Gatewood, Jeremiah Terry, and all others, shall be, and are hereby, released and exonerated from any liability on the aforesaid bonds.

Approved February 6, 1839.

CHAP. 1157.—AN ACT to extend the Constable's district for the town of Salvisa, in Mercer county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Constable's district for the town of Salvisa, in the county of Mercer, be, and the same is hereby, extended and enlarged, so as to run to the Anderson county line, thence between the Kentucky and Salt river as high up as Norton's wagon shop, thence across the county along the road leading towards Shakertown, between Jones' farm and Olds' old dwelling, so as to intersect the Shawnee run road, and thence to the ferry.

Approved February 6, 1839.

CHAP. 1158.—AN ACT to prohibit unlawful dealing by corporations, and the better to protect the currency.

Corporations
not to discount
notes, or lend
money, unless
authorized by
their charter.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the discount of any bond, bill, note, or other security, by any corporation, not authorized by the provisions of its charter to lend money, shall be void in law, and when collected by any such corporation, the amount may be recovered by suit at law, or bill in equity, in the name of the person from whom the same was purchased, or by bill in equity, in the name of any creditor of the person from whom the same was purchased, in like manner as other choses in action are liable to be attached in equity, and applied to the payment of debts.

Not to receive
more than six
per cent. inter-
est.

SEC. 2. That in the discount of bonds, bills, notes, and other securities, by corporations authorized to lend money, it shall not be lawful for any such corporation to contract for, ask, demand, take, or receive, any other, or greater, discount than

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at the rate of one per cent., in advance, for every sixty days, or at that rate for a longer or shorter time; and contracts, endorsements, and assignments, contrary to this provision, shall be void in law and in equity, and when collected by any such corporation, the amount may be recovered by an action at law, or suit in equity, in the name of the person from whom such greater discount was contracted for, demanded, taken, or received, or by suit in equity, in the name of any creditor of such person, as other choses in action are liable to be attached for the payment of debts: provided, that nothing in this act shall be so construed as to prohibit the corporations created by this State, and authorized to deal in exchange, from taking the exchange between the place where the bill is purchased or discounted, and the place where it is to be paid, in addition to the legal interest for the time the bill has to run, including three days grace.

Exchange.

Sec. 3. That all contracts, by corporations, not authorized by their charters, shall be void in law and in equity, but no contract, by any corporation created by this State, by which bonds, bills, notes, and other securities, are taken as security for existing debts, liabilities, and contracts, shall be held contrary to the provisions of the charter.

Contracts not authorized by their charters void.

Sec. 4. That when any county, city, town, or other corporation, company, or individual, within this Commonwealth, shall execute, issue, or circulate, or be preparing to execute, issue, or circulate, any unlawful promissory notes, bills, orders, tickets, or checks, for money, or for any other thing, or certificates of stock, or of deposit, it shall be lawful for the attorney for the Commonwealth for the circuit, and it shall be his duty, to file a bill in the name of the Commonwealth, in the Chancery Court of the county, against the party, and set out the facts, and a description of the notes, bills, orders, tickets, checks, or certificates of stock, or of deposit, and sustain the same by affidavit, and make application to a Judge authorized to grant injunctions; and it shall be lawful for any such Judge, on finding such notes, bills, orders, tickets, or checks, to be unlawful, to grant an injunction against the executing, issuing, or circulating such, within this Commonwealth, and which injunction shall be without bond and surety; and on final hearing the court may dismiss the bill, or make the injunction perpetual, as the facts may authorize, and the courts shall have power and authority to enforce said injunctions by fine and imprisonment; but proceedings in no such case shall be used in any indictment against a party for the executing, issuing, or circulating, any such unlawful notes, bills, checks, tickets, or orders.

Proceedings to prevent the issuing unlawful notes, &c.

Sec. 5. That when any individual, company, or corporation, within this State, shall act, or attempt to act, or be about to act, as the agent or partner of any individual, company, or corporation, without this State, in the redemption or circulation of the notes, bills, checks, tickets, orders, or certificates of

Proceedings against agents for companies, &c., out of the State.

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such individual, company, or corporation, or as the agent or partner of any individual, company, or corporation, within this State, in the issuing, or circulating, any unlawful notes, bills, checks, tickets, or orders, it shall be lawful for the attorney for the Commonwealth, of the circuit, and it shall be his duty, to file a bill, in the name of the Commonwealth, in the Chancery Court of the county, against the offending party, and set out the facts and sustain them by affidavits, and to apply to some Judge authorized to grant injunctions; and it shall be lawful to enjoin such party from continuing to act in such unlawful agency, without requiring bond and security from the Commonwealth; and on hearing, the bill may be dismissed, or the injunction made perpetual, as the facts may authorize; and the court may enforce the injunctions by fine or imprisonment; but the proceedings shall not be evidence in a penal prosecution.

Powers of the
courts.

SEC. 6. That, in any case under the fourth and fifth sections of this act, the court may refuse the injunction in the first instance, and direct the bill to be filed, and the cause to be prepared within a reasonable time, to be fixed by the court, and, on final hearing, may dismiss the bill, or decree a perpetual injunction, as the facts may authorize.

Certificates
of stock, and of
deposit, not to
be circulated as
bank notes.

SEC. 7. That it shall not be lawful for any individual, company, or corporation, to issue any certificate of deposit, or of stock, in such manner, or in such form, and on such paper, as to have circulation, and be circulated and passed, from one to another, as bank notes, or in the place of bank notes, or money; and each and every individual, company, or corporation, that shall offend against this provision, shall, for every such offence, forfeit and pay to the Commonwealth, or to any one suing for the same, the sum of one hundred dollars; and it shall not be lawful to circulate, or pass, or offer to circulate or pass, any such certificate of deposit, or of stock, in this Commonwealth, as bank notes, or in the place of bank notes, or of money; and each individual, company, or corporation, violating this provision, shall forfeit and pay a like sum to the Commonwealth, or to any person suing for the same; and each and every person, company, or corporation, acting as the agent, or otherwise, in the redemption of any such certificate of deposit, or of stock, within this Commonwealth, shall, for each and every violation of this provision, forfeit and pay to the Commonwealth, or to any person suing for the same, a like sum, and recoverable in like manner.

Approved February 8, 1839.

CHAP. 1159.—AN ACT to incorporate the Louisville Law Library Company.

Company in-
corporated.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Henry Pyrtle, Garnett Duncan,

John Kearney, and their associates and successors, shall be, and they are hereby, created a body politic and corporate, by the name of the Louisville Law Library company, and by that name shall have perpetual succession and corporate existence, with power and authority to contract and be contracted with, sue and be sued, and have a corporate seal, and change, alter, and renew, the same at pleasure.

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SEC. 2. That the affairs of the Louisville Law Library Company, and the management of its fiscal and prudential concerns, shall be under the control and direction of a President and four Managers, who shall be annually elected by the shareholders, at such time and place as the by-laws shall direct.

President & managers.

SEC. 3. That the Louisville Law Library Company shall establish and maintain a Law Library in the city of Louisville, to consist of the history, treatises, constitution of the United States, and of the several States and Territories, and of the laws and decisions of the Supreme Court and Appellate Courts of the United States, and of the several States and Territories, and of the laws of Great Britain and Ireland, and the decisions of the Common Law and Chancery Courts, and of Elementary Works, and such other treatises on law as may be deemed useful.

Library.

SEC. 4. That the Library authorized, as aforesaid, shall be kept in the Library rooms to be provided for the purpose, and no books shall be permitted to be taken out of the Library on any pretence whatever; but reading and writing desks shall be provided, and those entitled to the use of the Library shall have the right to read the several works, and take extracts, at such convenient times as the by-laws shall direct.

Library rooms, & the books not to be taken therefrom.

SEC. 5. That the capital shall be twenty thousand dollars, divided into two hundred shares of one hundred dollars each; but may be increased, from time to time, as the President and Managers may deem proper. The shares shall be personal estate, and transferable on the books of the company as the by-laws shall direct. Not more than twenty five per cent. per annum shall be called on the stock first sold; and the company may be organized as soon as sixty shares shall be subscribed, and no one but a shareholder shall be President or Manager of the company; and at all elections and meetings of the stockholders, each share shall be entitled to one vote; and no one individual shall be allowed to hold more than five shares, and the shares not to be liable for the payment of debts.

Capital stock.

SEC. 6. That for the purpose of paying the expenses of a Librarian, and the incidental expenses of the company, and adding new works to the Library, the President and Managers shall have the right to make an annual assessment on the shares, not exceeding twenty per cent., and enforce the same by a forfeiture of the share to the use of the company, or collect the same, as other small debts, in such manner as the

Annual assessment.

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by-laws shall direct, and for the same purpose they shall have the right to sell annual tickets, for the use of the Library, at such reasonable sum, payable in advance, as they may, from time to time, think right; but no such privilege shall entitle the holder of the ticket to enjoy the right in any other manner than the shareholders are entitled to enjoy the same.

Circulating
library.

SEC. 7. That in addition to the Library, authorized by the aforesaid provisions, said company may establish a Law and Miscellaneous Circulating Library, separate and distinct therefrom, and raise by subscription a capital of twenty thousand dollars, divided into shares of one hundred dollars each, and increase the same, from time to time, as there is necessity for more capital, and they may start said Library upon any number of shares they may think right, and may make the instalments on the stock not exceeding twenty five per cent., per annum, and the annual contributors not exceeding twenty five per cent., per annum, and enforce the payments on the stock and the annual assessment by forfeiture, or collect the same as other small debts; and the stock for the Law and Miscellaneous Library shall, in all respects, be on the same footing as the stock in the Law Library, and the company may make such by-laws and regulations concerning the same, and charge such sums for the use thereof, as they may deem proper.

Donations.

SEC. 8. That said company may receive donations, to each of said Libraries, by gift, devise, or otherwise, and shall keep a record of the donations to each, and faithfully apply the same in accordance with the intentions of the donors.

Annual estimates of the value of the library and sale of shares.

SEC. 9. That the President and Managers shall make annual estimates of the value of each of said Libraries, and shall sell to such of the citizens of Louisville as may wish to purchase one share at the valuation; and a share in either Library shall entitle the holder to a ticket for the use of the other Library, if applied for.

To keep records and appoint officers.

SEC. 10. The President and Managers shall keep a record of the proceedings of the company, and shall appoint a Clerk and Librarian, and may establish lectures and appoint lecturers, and such other officers and agents as the interest of the company may require.

May hold suitable buildings.

SEC. 11. That said company may purchase and hold a suitable building for their Library and offices, or they may purchase a suitable lot and erect a suitable building for the same, and they may unite with the Mechanics' Institute of Louisville, and the Louisville Museum Company, in the purchase of a suitable lot, and the erection of suitable buildings for all said companies, and declare, by deed recorded, the interest of each in the lot and building, and the proportion of the costs of building, and insurance, and repair, which each shall pay.

Books for subscription of stock.

SEC. 12. The persons named in this act, or any one or more of them, shall be commissioners to open books of subscription of stock to the company; and, as soon as sixty shares

shall be subscribed, shall call a meeting of the shareholders and have the first Board of President and Managers elected; and the President and Managers, so elected, shall make out a list of by-laws and call a meeting of the stockholders for the purpose of considering and adopting them, and the stockholders may vest in the President and Managers the power of making by-laws.

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Elections.

Approved February 8, 1839.

CHAP. 1160.—AN ACT for the benefit of Edward McCoy and William Crabtree.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts issue to Edward McCoy a warrant on the Treasury for seventeen dollars, on account of services rendered by him, as Commissioner of the revenue in Butler county, in January and February, eighteen hundred and thirty seven.

SEC. 2. That said Auditor issue to William Crabtree a warrant on the Treasury for thirteen dollars, on account of services rendered by him, as Commissioner of the revenue in Harlan county, in January and February, eighteen hundred and thirty seven.

Approved February 8, 1839.

CHAP. 1161.—AN ACT for the benefit of Margarette B. White.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for James Moorman, guardian for Margarette B. White, to file a bill in chancery, in the proper court, in the name of the said Margarette, against Nicholas Bosly, and allege that an exchange has been made of a negro woman, called Milly, the property of the said Margarette, for a negro woman, called Candis, the property of the said Nicholas Bosly, and fifty dollars paid as the difference; and it shall be lawful for the court, by decree, to confirm the exchange, if it shall appear to be fair and beneficial, and such decree shall vest in each party, in interest, the title of the slaves given in exchange.

Approved February 8, 1839.

CHAP. 1162.—AN ACT for the benefit of the heirs of Ruth and Polly Pointer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the guardian, appoin- A sale of land authoris'd

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ted in the State of Tennessee, for the infant children of Polly and Ruth Pointer, deceased, to file a petition in the proper Circuit Court, in the name of the infants, and sustained by the oath of the guardian, setting out the small tracts of land held by the infants in this State, and the value and unproductiveness thereof, and that it would be to the interest of the infants to sell the same; and the court shall refer the same to commissioners to make report of the quantity of land and its value, and whether productive or not, and whether it would or would not be to their interest to sell the same; and on the coming in of said report, the court may decree a sale and conveyance of the land, and cause the proceeds to be collected, and the proportion of each paid over to the guardian of the infant, on his giving bond and good security faithfully to account for the same, with interest to the ward; but if the guardian fails, the court shall cause it to be put out at interest on real security until the infants arrive at full age.

Approved February 8, 1839.

CHAP. 1163.—AN ACT for the benefit of Joseph Dawson.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the Campbell County Court to appropriate, from time to time, out of their county levy, such sums of money as they may deem sufficient for the support and maintainance of Joseph Dawson, a pauper, without compelling or requiring him to live in the poor house of said county: provided, said court shall believe that, at the time of making such appropriation, said Dawson is a poor person and unable to support himself by his own labor: and, provided further, that the amount appropriated to his support shall not exceed the rate of seventy five dollars per annum, and that no such appropriation shall be valid unless made at the term assigned by law for laying the county levy in said county.

Approved February 8, 1839.

CHAP. 1164.—AN ACT for the benefit of the heirs of Francis Blaydes, deceased.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for Sarah Blaydes, of Shelby county, in her character of guardian of the heirs of Francis Blaydes, deceased, to sell at public or private sale, as she may deem best, a certain slave named Mary, the property

County court
authorized to
support a pau-
per without his
living at their
poor house.

A slave may
be sold.

of said heirs: provided, however, that before such sale is made, the said guardian shall enter into bond with security in the County Court of Shelby, in a penalty double the value of said slave, conditioned to account for, and pay to said heirs, the proceeds of such sale, whenever they may be entitled to receive the same.

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Approved February 8, 1839.

CHAP. 1165.—AN ACT to provide for re-binding certain record books of the Shelby county court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Court of Shelby county is hereby authorized to direct the Clerk of said court to send their record books, or such of them as require re-binding, to any book bindery in a neighboring county, for the purpose of having them re-bound; the expenses attending said removal and binding to be paid out of the county levy of Shelby county.

Approved February 8, 1839.

CHAP. 1166.—AN ACT to amend an act incorporating the Stockholders of the Merchants' Louisville Insurance Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the fourth section of an act incorporating the Merchants' Louisville Insurance Company shall be, and is hereby, so amended as to give to any of the shareholders of said company, or to such as may hereafter become shareholders in said company, owning less than fifty shares of stock, the right to designate, in writing, under their hands, from time to time, one person for every fifty shares of stock owned by them, to be a director of the company, the person so designated being a stockholder, which designation shall be entered on the records of the company. Any stockholder owning not less than fifty shares of stock, shall, by virtue thereof, be a director of the company, so long as he, she or they are the bona fide owners of not less than fifty shares, and when any such stockholder shall cease to own fifty shares of the stock, he shall cease to be a director, unless designated by the bona fide owner of stock of less than fifty shares each, making together, in such designation, at least fifty shares.

Directors.

SEC. 2. That should any election, directed to be held under the charter of the said company, from any cause, be neg-

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lected to be held on the day designated, or be held on a subsequent day, the corporation shall not, from that cause, be dissolved, but any or all elections, made in good faith, shall be held and deemed valid as if held on the day designated by the act of incorporation.

Approved February 8, 1839.

CHAP. 1167.—AN ACT to repeal the tenth section of an act to incorporate a Fire Company in the town of Cynthiana, and for other purposes, approved January 27, 1838.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the tenth section of the act, entitled, "an act to incorporate a Fire Company in the town of Cynthiana, and for other purposes," be, and the same is hereby, repealed.

Approved February 8, 1839.

CHAP. 1168.—AN ACT to amend an act to provide against compounding penal prosecutions, approved February 3, 1837.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the third section of an act, entitled, an act to provide against compounding penal prosecutions, approved February third, eighteen hundred and thirty seven, shall be so amended that in all penal prosecutions, where judgment is confessed, the Commonwealth's Attorney, or the prosecuting Attorney, or the prosecutor or informer, shall only be entitled to the one half of that part of the penalty given to them by existing laws; but that the person so confessing judgment, shall be liable to the Commonwealth for the full penalty as though convicted by a jury without confession, and judgment shall be rendered accordingly; and so much of the third section of the act to which this is an amendment, as conflicts with this provision, is repealed, and the former law reinstated and re-enacted.

Approved February 8, 1839.

CHAP. 1169.—AN ACT to amend an act, entitled, an act for the benefit of the estate of Joseph Spencer, deceased, approved February 16, 1838.

Part of former law repealed. SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of an act, entitled, an act for the benefit of the estate of Joseph Spencer, deceased, approved February sixteenth, eighteen hundred and thirty

eight, as authorizes the executor or administrator of said estate to file a petition, or bill, in the Marion Circuit Court, praying for the sale of certain lots in the town of Shelbyville, be, and the same is hereby, repealed.

SEC. 2. It shall be lawful for the executor or administrator of said estate, to file a petition, or bill, in the Shelby Circuit Court, making the heirs of said decedent defendants thereto, and setting forth the condition of the estate, the amount of debts against said estate that are yet unpaid, and that the personal estate is exhausted, and praying for the sale of the real estate in Shelby county, belonging to the estate of said Joseph Spencer, deceased; for the purpose of the payment of said debts; and whenever it shall appear to said court, that the heirs of said Spencer have been duly served with process, or having filed their answer by themselves, if of age, or by their guardian *ad litem*, if under age, and that the personal estate has been exhausted, and that debts yet remain unpaid, and that it will be of benefit to the heirs to make sale of said real estate, to proceed in the matter as is directed by the above recited act.

Petition to be filed in Shelby circuit court & a sale of real estate authorized.

Approved February 8, 1839.

CHAP. 1170.—AN ACT to amend an act, entitled, an act to establish the Louisville Chancery Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the subpoena from the Louisville Chancery Court shall, on its face and by its terms, warn the party defendant to appear and answer the complainant's bill, within thirty days from the day of serving the same, without further warning. The court shall settle the tenor of the subpoena, and the Clerk shall send, with the same, a printed copy thereof for each defendant, one of which the officer, or person having the subpoena, shall deliver to each of the defendants when he serves the same, and shall state the fact in his return; but the complainant may enter, on the memorandum book, those defendants that are non-residents, and no copy shall be sent for them unless specially required; and the Clerk may issue as many subpoenas as may be required, with as many copies to each as the complainant may require.

Subpoenas.

SEC. 2. That when a defendant is a resident of this State, and the first subpoena shall be returned not found, an alias may issue; and if the defendant cannot then be found, so as to be served in person, a copy may be left with the wife, or any free white person of the family, or at the usual place of abode of such defendant, with a free white person, member of the family, with which he or she resides, and the truth shall be returned by the officer; and if the party do not appear

Alias subpoena.

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within thirty days from the day such copy was left, a *plurias* subpoena shall issue, and if the defendant be not found, so as to be served in person, a copy shall again be left as aforesaid and the fact returned; and if the defendant do not appear within thirty days from the day of leaving the last copy, the case may be prosecuted, in all respects, as though the subpoena had been executed on the said defendant in person; but the complainant may, at any time, sue out a subpoena and have a personal service when it can be had.

Complainant
may proceed to
proof.

Answer may
be enforced,
&c.

On amended
bill subpoenas
not to be served
on parties be-
fore the court,
unless new mat-
ter be alleged.

Service of
subpoena enter-
ed on rule
docket.

Suits to be
pleaded on rule
docket.

Def't may
set causes on
trial docket when
comp't fails to
prepare them.

Pay of com'r
or Marshal for
making sales.

SEC. 3. That when the subpoena shall be served, as required in the foregoing sections, and the thirty days given for appearance thereto have expired, the complainant may file his interrogatories and proceed to proof; and if an answer be required, it may be enforced by attachment, or if it is desired to take the bill for confessed, when no answer has been filed, the cause may be set down for hearing, and the bill be taken for confessed at the hearing.

SEC. 4. That it shall not be necessary, on filing an amended bill making additional parties, to serve the subpoena on the defendants already before the court; but when the amended bill alleges new matter, material to the complainant's case, against the defendants who have been served with process, the complainant shall have the subpoena served, on the amended bill, before it shall be taken for confessed.

SEC. 5. It shall be the duty of the Clerk of the Louisville Chancery Court, when a subpoena is returned executed on a defendant, to enter the return of the Marshal, bailiff, or other officer, on the rule docket, and such entry shall be evidence of the execution of the subpoena, in case of the loss thereof.

SEC. 6. That when suits are instituted in the Louisville Chancery Court, they shall be placed on the rule docket, and there remain, without continuance, until prepared and ordered on the trial docket; but when a demurrer shall be filed to any of the proceedings or exceptions to an answer, the same shall be set down for hearing, and when decided, the cause shall proceed on the rule docket, until set down for hearing on the trial docket; but if the complainant shall fail to prepare his cause for hearing, for two whole terms, any defendant who has been served with process, may set the cause, on the trial docket, for dismissal for want of prosecution; and the court may dismiss for the cause, unless good cause be shown to remand the case to the rule docket for preparation.

SEC. 7. The Marshal, or other commissioner, making sales under the decrees of the Louisville Chancery Court, shall be entitled to the moneys actually expended in advertising the sales, and two per cent. on all sums of six hundred dollars and under; one and a half per cent. on all sums over six hundred dollars and under two thousand dollars, and one per cent. on all sums over two thousand dollars: provided, that in no case shall the commissioner or commissioners be entitled to more than fifty dollars for making sale under any one decree.

Sec. 8. The Marshal of said court shall be entitled to his actual expenses in taking care of property seized under the attachment of said court, and be entitled to one per cent. on all sums of eight hundred dollars and under; and for sums over eight hundred dollars and under two thousand dollars, three quarters of one per cent.; and for all sums of two thousand dollars and over, one half of one per cent. for seizing the same under the attachment: provided, that when the property seized is of less value than the attaching creditors claim, the commission shall be on the value of the property seized; and the Marshal shall file his fee-bill with the court for such services, and the same shall stand one week for exceptions; and the court shall allow said bill, or so much thereof as may be right, and order the amount to be paid out of the attached effects, or either party to the cause, as may be equitable.

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Marshal's fees for seizing & taking care of property under attachment

Proviso.

Sec. 9. The master in chancery in the Louisville Chancery Court, shall not be allowed more than five dollars for drawing and executing each deed of conveyance, under a decree of said court; and he shall make out and return, with each report, which he may make under any order of said court, an account or bill for his services in making the same, which shall be filed and laid over one week for exceptions; and thereafter the court may allow the account, or so much thereof as may be reasonable compensation for the services rendered, and direct which party, complainant or defendant, is to pay the same.

Master's pay for his services.

Sec. 10. No replication to an answer in chancery shall be filed in said court, without especial leave; but the cause, for every purpose, shall be heard, as if a replication had been filed.

Replication to answers.

Sec. 11. That it shall be the duty of the Marshal of the Louisville Chancery Court, and his deputies, the several Sheriffs of this Commonwealth, and their deputies, to receive, receipt, collect, and account for, the fee-bills of the Clerk of the Louisville Chancery Court, in all respects, as to time and manner, that Sheriffs are bound to receive, receipt for, collect, and account for, the fees of other Clerks in this Commonwealth; and shall be entitled to the same commissions, and subject to the same proceedings, and liable to the same penalties, for the like failures, in all respects.

Officers to collect clerk's fees.

Sec. 12. The rules of the Louisville Chancery Court shall be made to conform to the act establishing said court, and to the preceding amendment.

Sec. 13. That it shall be the duty of the Judge of the Louisville Chancery Court to require of the Clerk of the Jefferson County Court, a compliance with the duties required of said Clerk by the sixteenth section of the act establishing the Louisville Chancery Court, and to enforce from said Clerk a compliance with said section.

Judge to require clerk of Jefferson City court to comply with a former act.

Sec. 14. That it shall be the duty of the Clerk of the Louisville Chancery Court, promptly and regularly, to endorse on an inner envelope of each cause, protected from wear and tear

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Clerk's fees.

List of fees
to be posted up
in his office.

by an outer envelope, the day of the filing of the bill, the teste of every subpoena, and other process issued, the return day thereof, the parties named therein; the return to such process, the proceedings taken in the office on the rule docket, the date and substance of every order made in court in such cause; for which service the Clerk shall be allowed, for every endorsement of every process, including the return thereof, if made, for every endorsement of every rule in the office, for every endorsement of every order or proceeding of court, five cents for each, to be charged by him to the party complainant or defendant, at whose instance the same was made, taken, or moved, and to be taxed as other costs of suit; and for the other services required by this act, he shall be entitled to the same fees that the Clerks of the Circuit Courts are entitled to for the same services; and he shall make out a list of the fees which he is entitled to charge, as Clerk of said court, and keep the same posted up in some conspicuous place in his office for the inspection of the suitors of said court.

Approved February 8, 1839.

CHAP. 1171. —AN ACT providing for a change of venue from the Greenup Circuit Court to Morgan Circuit Court, in the case of John C. Ball, and others.

WHEREAS, it is represented to the present General Assembly, that John C. Ball, William Ball, and Harrison G. Burns, stand indicted, in the Greenup Circuit Court, for a malicious stabbing—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That at the next sitting of the Greenup Circuit Court, the said John C. Ball, William Ball, and Harrison G. Burns, upon appearing in court, to answer said indictment, may, and they are hereby authorized and allowed to make their election, whether they will be tried upon a copy of said indictment, in the Morgan Circuit Court, or not; and if they should not elect to be tried in the said Morgan Circuit Court, the said Greenup Circuit Court shall proceed to try them, in the same manner, upon said indictment, as if this act had not passed.

May elect to
be tried in Mor
gan.Papers to be
transmitted.

SEC. 2. That if the said John C. Ball, William Ball, and Harrison G. Burns, shall, when the question is put to them by the Judge of the Greenup Circuit Court, elect to be tried in the Morgan Circuit Court, the court shall have their election entered upon record, and the Clerk of the Greenup Circuit Court shall make out and certify a copy of all the orders taken in said cause, to be sent, with a copy of the indictment, and other papers belonging to the prosecution, to the Clerk of the Morgan Circuit Court, in the manner hereinafter directed. Upon the

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said John C. Ball, William Ball, and Harrison G. Burns making their election to be tried in the Morgan Circuit Court, the Judge of the Greenup Circuit Court may fix the amount of bail that each shall enter into, for their appearance to answer said charge; and upon their entering into said recognizance, the condition shall be, that they will appear before the Judge of the Morgan Circuit Court, on the second day of the July term next thereafter, to answer to said indictment, and not depart without the leave of the Morgan Circuit Court; and upon their failure to enter into said recognizance, the Judge of the Greenup Circuit Court shall direct and order the Sheriff of Greenup county, forthwith to convey said John C. Ball, William Ball, and Harrison G. Burns, to the jail of Morgan county, and deliver them to the Jailer of said county of Morgan, who is hereby authorized and directed to receive into his jail and custody, the bodies of the said John C. Ball, William Ball, and Harrison G. Burns, and to give said Sheriff a receipt therefor; and the Sheriff shall be allowed the same as is now allowed by law, for similar services; and the said court shall recognize all the witnesses for the Commonwealth, in said prosecution, to appear on the second day of the next July term of the Morgan Circuit Court; which recognizances shall be as obligatory on the witnesses, as any other recognizances are, when taken by virtue of any law now in force on that subject; copies of which recognizances shall be transmitted, with the other papers belonging to the prosecution, to the Clerk of the Morgan Circuit Court, and be as binding, and subject to the like proceedings, as other legal recognizances now are.

Ball.

Upon a failure to give bail to be conveyed to Morgan jail.

Witnesses to be recognized.

SEC. 3. That as soon as possible after the order of election, made as aforesaid, the Clerk of the Greenup Circuit Court shall make out copies of all the orders, together with all the recognizances, taken in said court, in said prosecution; and shall cause them, together with copies of the indictment, and other papers filed therein, to be conveyed and delivered to the Clerk of the Morgan Circuit Court, and take his receipt for the same; and the said Clerk shall be allowed the same compensation, per mile, as in change of venue in a civil suit; the allowance to be made by the Greenup Circuit Court, and the same to be paid out of the treasury; and the said Clerk of the Morgan Circuit Court is hereby authorized to issue subpoenas, and all other process, as though the indictment had been found in said court; and the said Morgan Circuit Court shall possess the same power to try said John C. Ball, William Ball, and Harrison G. Burns, on said indictment, as they would have had, if said offence had been committed in Morgan county; and the prosecution shall, in all respects, be conducted as though the offence had been committed in the said county of Morgan.

Clerk of Greenup to convey the papers to Morgan.

Clerk's pay.

Clerk of Morgan to issue subpoenas, &c.

SEC. 4. That the witnesses attending the Morgan Circuit Court, by recognizance or subpoena, shall be allowed the same per day, and for travelling, as other witnesses, going out of the county, by legal process: provided, however, that when the

Pay of witnesses.

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parties aforesaid shall be enquired of by the Judge, whether they elect to be tried in the said county of Morgan, he shall also enquire of them, whether they are willing that their trial shall take place on a copy of the indictment filed against them in said case, and that it shall, to all intents and purposes, be used, and have the same effect, as if the original indictment was present, in said Circuit Court of Morgan; and if they answer in the affirmative, their consent shall be entered on record, with the order concerning their election; but if they answer in the negative, the venue shall not be changed.

Approved February 8, 1839.

CHAP. 1172.—AN ACT to amend an act, entitled, an act to incorporate the town of Albany, in Clinton county, and Ballardsville, in Oldham county, approved January 27, 1836.

Albany.

Elect trustees.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the citizens and owners of lots in the town of Albany, may meet at the court house, in said town, on the first Monday in April next, and at the same time every year thereafter, and elect five Trustees for said town, who shall be owners of real property therein, and who shall hold their office one year, and until their successors shall be duly qualified; at which first election, some Justice of the Peace shall preside, and hold said election, having advertised the time of said election, at the court house door, in said town, three days previous; and at all subsequent elections, the Clerk of the Board shall hold the same; and that all free white male citizens in said town, over the age of twenty one years, shall be entitled to vote for Trustees.

Oath of trustees.

Officers to be elected & their duties.

SEC. 2. That the Trustees so elected, after taking an oath, before some Justice of the Peace for Clinton county, well and truly to discharge the duties pertaining to said office of Trustee, shall proceed to elect a Chairman, Clerk, Town Surveyor, and Collector, and Overseer of the streets, to serve one year, and until their successor shall be duly qualified; that the Chairman and Clerk shall be Trustees, and the Clerk shall take an oath to discharge the duties of his said office, and said Clerk shall keep a fair record of the proceedings of said Board, in a book to be provided for that purpose; which proceedings, at each meeting, shall be signed by the Chairman, and countersigned by the Clerk. It shall be the duty of the Town Surveyor to survey and lay off, any lot or lots, which he may be called upon to survey; for which he shall be entitled to charge the person so applying, fifty cents for each lot so surveyed; and it shall be the duty of the Town Collector, to execute bond, with good security, to the Trustees and their successors, in a sum not less than double the amount of the taxes to be

collected, conditioned for the faithful collection and disbursement of all taxes which shall be levied by said Board of Trustees; and the same may be put in suit for any violation of its condition, and shall not be void on first recovery.

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SEC. 3. That said Trustees, when elected as aforesaid, is constituted a body politic and corporate, and may sue and be sued, plead and be impleaded, and may use a seal, and shall fill any vacancy which shall happen, from time to time.

Trustees incorporated.

SEC. 4. That said Trustees and their successors, a majority constituting a quorum to do business, shall have the power to levy and collect, annually, from each male citizen in said town, subject to work on roads, and from the owner of male slaves over eighteen years old, any sum not exceeding one dollar, and an *ad valorem* tax on lots, and their improvements, any sum, annually, not exceeding five hundred dollars; and upon the owner or owners of lots, failing to pay said tax, the said Town Collector shall be, and he is hereby authorized to expose any lot or lots to public sale, or so much thereof as shall be sufficient to pay the said tax, and costs due thereon: provided, said Town Collector shall first advertise the time of said sale, at three public places in said town, and in some authorized newspaper printed in this State, once a week, for four weeks; and said Collector shall have the same power and authority to convey any lot or lots, so sold, as Sheriffs have to convey lands sold under execution: provided, however, that the owner of any lot, so sold, shall have the right to redeem the same, within one year, upon paying the purchase money, with twenty per cent. thereon; and the citizens of said town shall be exempt from working on roads.

Town taxes.

SEC. 5. That the Town Collector shall have the same right to distrain for taxes levied by the Board of Trustees, that Sheriffs now have to distrain for taxes.

Taxes may be distrained for.

SEC. 6. That it shall be the duty of the Trustees of said town, to keep the streets and public square in said town, in good order, and may cause side walks to be made; and where the owner of any lot shall fail or refuse to make a side walk to the extent of his ground, when required, by an order of said Trustees, to do so, the said Board of Trustees may cause it to be done, at the expense of the owner, who shall be responsible to the person who does the work, for its value, as agreed upon by said Board.

Streets, &c. to be kept in order.

SEC. 7. That said board shall have power to pass by-laws and ordinances, to prevent shooting, or running horses in the streets, and for the protection of the public springs, and for the suppression of any other evil practices in said town: provided, that such by-laws shall not be inconsistent with the constitution and laws of this State; and for a violation of said by-laws, said Trustees may, in their corporate name, bring and prosecute, a warrant, or warrants, before any Justice of the Peace, who shall adjudicate upon it, and render judgment according to the evidence and such by-laws: provided, howev-

By-laws.

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er, that said Trustees shall not impose a fine of more than five, nor less than three dollars, for any such offence: and provided, further, that before such by-laws shall have effect, and be in force, the said Board of Trustees shall cause their Clerk to put up a copy thereof, at the court house, in said town.

Pay to of-
ficers.

SEC. 8. That said board shall have power to allow and pay their Clerk, Collector, and Overseer of the streets, a reasonable compensation for their trouble.

Duty of the
overseer of st's.

SEC. 9. That it shall be the duty of the Overseer of the streets, to superintend the improvement of the streets of said town, under the order of said trustees; and said trustees, or a majority of them, shall have power and competent authority to convey all lots in said town, to the persons entitled to the legal title thereof, from them; and it shall be the duty of the Chairman of said Board of Trustees to prosecute all infractions of said by-laws.

Conveyance
of lots.

Approved. February 8, 1839.

CHAP. 1173.—AN ACT for the benefit of the heirs of John G. Evans, and the heirs of James Wilson.

Sales of land
authorized.
Evans.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the administrators of John G. Evans, deceased, to file a bill in chancery, in the proper Circuit Court, against the widow and heirs of the said Evans, and set out the personal estate and assets, and the demands against the estate, and the real estate descended, and its value; and after service of process, and answer, the court shall refer the bill to one or more commissioners, to state the accounts of the administrators, and the demands against the estate, and the value of the real estate; and if necessary or the payment of debts, the court may decree a sale of the real estate, or so much as may be necessary for the payment of debts, on such reasonable credits as will best serve the interest of the heirs and creditors, and shall cause the proceeds to be so applied, and a conveyance of the estate to be made to the purchaser; and may make all such other orders or decrees, as the facts of the case may require; and said cause may be decided at the first term, if prepared for final hearing, at such term.

Wilson.

SEC. 2. That it shall be lawful for Rebecca Wilson, widow of James Wilson, in her own name, and in the name of the heirs of James Wilson, by her, as their next friend, to file a petition in the proper Circuit Court, alleging that said Wilson departed this life, seized of a tract of land, in Pulaski county, of less than one hundred and eighty acres, and state the value of the land; and that she had removed to Illinois, with her children, and it would be to their interest to sell the land, and invest the proceeds in that State, in their names, and for their

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use; and the court shall refer the case to one or more commissioners, to ascertain and report the facts, and whether, in their opinion, it would be to the interest of the heirs, to have the sale made, and the proceeds so invested; and on the return of the report, the court may, if it shall appear to the interest of the heirs, decree a sale and conveyance of the land in Pulaski county; and when sold, and the proceeds collected, cause the same to be invested in lands in the State of Illinois, in the names of the said heirs; but the widow to have dower therein; and for that purpose, may appoint a commissioner, and require bond and security, for the faithful investion of the money; and may make such other orders and decrees, as the facts of the case will warrant, and decree the sale at the first term.

Approved February 8, 1839.

CHAP. 1174.—AN ACT the better and more effectually to protect the rights of reversionary legatees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of all persons within this Commonwealth, holding a life estate, in a slave, or slaves, to make out, and file for record, in the Clerk's office of the County Court, where he resides, under oath, the names of the slaves, and their respective ages, so held by him, for life, as of the first day of January in each year, within sixty days after such first day of January; and which the Clerk shall record in a book, to be kept for that purpose, and charge the usual fee to those to whom the slaves belong, in reversion or remainder; and any person or persons, failing to make out and file such list, annually, as herein required, shall forfeit to the person or persons entitled to the slaves in reversion or remainder, one hundred dollars, to be recovered by action of debt; and the proper Courts of Chancery shall have jurisdiction to enforce the making and filing for record, the names and ages of the slaves, as required by this act, on the bill of complaint of the persons entitled, in remainder or reversion, at the cost of the person holding such slaves for life.

Persons holding life estate in slaves to have their names recorded by the clerk of county court.

Approved February 8, 1839.

CHAP. 1175.—AN ACT to establish the town of Lovelaceville, in the county of McCracken.

Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the town which has been laid off in the county of McCracken, by John Hardin, County Sur-

Town established.

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veyor of said county, upon the lands of Andrew Lovelace, shall be, and the same is hereby established, upon the plan laid down by said Hardin, and the proprietor thereof; and it shall be the duty of the proprietor of said town, to have a true plat or plan of the same, recorded in the County Court Clerk's office of said county, as soon as practicable; which, when so recorded, shall be, and the same is hereby ratified and confirmed, and said town shall hereafter be known and called "Lovelaceville."

Trustees.

SEC. 2. That Benjamin Bourland, Benjamin Kimmel, Peniel Billington, Samuel Caruthers, and James Ashley, shall be, and they are hereby constituted and appointed, Trustees of said town; who shall, or their successors in office, a majority of them concurring therein, have full power to pass such by-laws for the government of said town, and the inhabitants thereof, as to them shall seem expedient and right: provided, the same be not contrary to the constitution and laws of this State. That should the office of Trustee for said town be vacated, by death, resignation, removal, or any other cause, those remaining in office shall have the power to fill such vacancy, a majority concurring therein. Said Trustees, before they enter upon the duties of their office, shall take, before some Justice of the Peace of said county, an oath, faithfully to discharge the duties of Trustee of said town, so long as he or they may continue to act as Trustee for the same.

By-laws.

Vacancies to be filled.

Oath of trustees.

Approved February 8, 1839.

CHAP. 1176.—AN ACT to amend the charter of the City of Maysville.

Insurance
co's chartered
by this State
not to be taxed
by the city, &c

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That no Insurance Company, chartered by the State of Kentucky, nor the stock held therein, shall be liable to be assessed for city taxation, by the Council of the City of Maysville: but if any person shall, within said city, as the agent of an Insurance Company, not chartered by this State, grant any policy of insurance, within said city, without first obtaining from the Council an annual license, he shall forfeit the sum of five hundred dollars for every such offence, to be recovered by indictment or presentment; nor shall any such license be granted by the Council, until the applicant shall have left with the Clerk of the Council, to be always kept for public inspection, a copy of the charter of the Company for which he proposes to act; nor until he shall have paid the sum of one hundred dollars, for the use of the city. This act shall be in force from and after the first day of March next.

Approved February 8, 1839.

CHAP. 1177.—AN ACT to alter the time of holding the Chancery Court, in the county of Madison, and for other purposes.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the February chancery term of the Madison Circuit Court shall be abolished, from and after the next term of said court; and it shall be the duty of the Judge of the Madison Circuit Court, in lieu of the chancery term of said court, to hold a chancery term of said court, commencing on the last Monday in November, eighteen hundred and forty, and each year thereafter, and to continue one week, if the business shall require it.

Approved February 8, 1839.

CHAP. 1178.—AN ACT for the benefit of George H. Clements, and others.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for George H. Clements, and others, adult heirs of ——— Clements, deceased, to file a bill in chancery, in the proper Circuit Court, alleging they hold a tract of land in Nelson county, containing about forty six acres, and had contracted to sell the same, at twenty five dollars per acre, and had purchased another tract of land in Meade county, to which they had removed, and which was more valuable to them; and that they could not make the title, owing to the infancy of a part of the heirs of the said Clements; and make the purchaser and infant heirs defendants; and after answer and proof, it shall be lawful for the court to confirm the sale, and decree a conveyance, if it shall appear to be to the interest of the infants; and make all such other orders and decrees, as the facts and equity of the case may require.

A convey-
ance of land
authorized.

Approved February 8, 1839.

CHAP. 1179.—AN ACT to amend the law regulating the mode of settling the accounts of Executors, Administrators and Guardians, approved February 24, 1834.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall not be lawful for any County Court in this Commonwealth, to appoint any member of the court, a commissioner to settle the accounts of any executor or guardian; and all such appointments shall be void, from and after the first day of August next.

Approved February 8, 1839.

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the Trustees of the town of Paducah, one fourth of all sums of money which may fall due and come to their hands, in consequence of the drawing of said lottery, after all prizes shall have been paid; and the remaining three fourths, the said managers shall, in like manner, deposit in some one of the Banks of Kentucky, subject to the order of the Trustees of said institutions of learning, in such proportions as they are entitled to, by the first section of this act.

Schemes or
classes may be
sold.

SEC. 4. That said managers shall be, and they are hereby authorized to sell and dispose of the scheme, or any class or classes of said lottery, to any person or persons, who shall enter into bond to the Commonwealth of Kentucky, with good security, with condition, well and faithfully to comply with all the terms and provisions of this act; which bond or bonds shall be received by said managers, and be by them filed in the Clerk's office of the McCracken County Court, before said lottery or any class thereof, shall be drawn: provided, that such sale or sales shall not be made, of any class or classes, for less than twenty five per cent. on the amount proposed to be drawn.

Vacancies of
managers to be
filled.

SEC. 5. That if any of the persons appointed as managers by the first section of this act, shall refuse to serve, fail to qualify, or, after having qualified, resign, the remainder of said managers shall have power to select another individual or individuals, to fill the vacancy so occurring and produced by any of the causes aforesaid, or any other cause.

Trustees of
Female Seminary.

SEC. 6. The Trustees of the Paducah Female Seminary shall be five in number, (any three of whom shall constitute a quorum,) shall be appointed in the same manner, and have the same rights and powers as are given to the Trustees of the Paducah Seminary, by an act approved ninth February, eighteen hundred and thirty seven.

Trustees to
take oath and
give bond.

SEC. 7. Before the trustees of said institutions of learning, or either of them, shall be entitled to the provisions of this act, they shall, before some Justice of the Peace, take an oath, that they will faithfully perform the duties of trustee, to the best of their skill and ability; and the trustees of each institution, before they shall be entitled to the fund, as set forth in the first section hereof, shall enter into bond, in the penalty of at least the amount they are each entitled to, under the third section, payable to the Governor of this Commonwealth, and his successors, conditioned for the faithful appropriation of said sums, for the purposes herein set forth; which said bonds shall be filed with the Clerk of the McCracken County Court, whose certificate of the fact of filing, shall be deemed a sufficient voucher for the president and directors of the Bank in which said deposit shall have been made, to pay over to the chairman of the respective institutions, the respective amounts deposited to their credit, as directed in the third section of this act.

Approved February 8, 1839.

CHAP. 1183.—AN ACT to authorize the city of Lexington to borrow money for certain purposes.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Mayor and Board of Councilmen of the city of Lexington, are hereby authorized to borrow such sum or sums of money as they may deem necessary for the advancement of the interests of any department of Transylvania University; and they may issue the bonds or scrip of the said Mayor and Board of Councilmen, signed by the Mayor, and under the seal of said city, bearing such rate of interest, not exceeding six per centum per annum, and payable at such periods (not less than twenty years) as they may think proper, for the payment of such sum or sums as they may borrow, under the authority above given; and they are hereby further authorized, if they shall hereafter deem it necessary, to issue like bonds or scrip, payable at such time or times as they may judge proper, for the payment of the interest upon said bonds.

Approved February 8, 1839.

CHAP. 1184.—AN ACT to allow an additional Justice of the Peace to Green county.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the people living south of Little Barren river, in Green county, are without any Justice of the Peace, in that part of the county, and that it is necessary for them to have one to reside there—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the county of Green shall be entitled to one additional Justice of the Peace; who, at the time of his appointment, may reside on the south side of Little Barren river, in Christopher Sandridge's neighborhood.

Approved February 8, 1839.

CHAP. 1185.—AN ACT to change the name of Mary Roberts, to the name of Mary Clifton.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of Mary Roberts be, and the same is hereby changed to the name of Mary Clifton.

Approved February 8, 1839.

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SEC. 2. That it shall and may be lawful for Thomas B. Jefferson to reduce the width of main street, in the town aforesaid, to thirty feet, where the said street binds on lot No. 72.

Approved February 8, 1839.

CHAP. 1192.—AN ACT to establish the county of Breathitt.

Boundary.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That from and after the first day of April, in the year of our Lord, one thousand eight hundred and thirty nine, all the parts of the counties of Clay, Perry, and Estill, contained in the following boundary, to wit: beginning on the north side of the Middle Fork of the Kentucky river, where the lower Twin creek runs into the same; running thence a southwardly course, to the dividing ridge between the South and Middle Fork of said river; thence up said ridge, to the head of the right hand fork of Long's creek; thence down said creek, to the Middle Fork; thence running a straight line, crossing said Middle Fork, to the head of Strong's branch; thence with the dividing ridge between said branch and Elijah Bolin's branch, to the North Fork of said river, at a fish-trap, below Samuel Davidson's; thence a straight line, crossing said North Fork, to Lost creek, to where Ten Mile creek empties into the same; thence a straight line, crossing said creek, to Troublesome creek, at the mouth of Buckhorn; thence up the dividing ridge between Troublesome and Buckhorn creeks, to the Floyd county line; thence with the same to the Morgan county line; thence with said line to the head of lower Devil's creek; thence down the same to said North Fork; thence a straight line to the beginning; shall be, and the same is hereby erected into one distinct county, to be called and known by the name of Breathitt.

Number of
Justices, when
and where to
meet, &c.

SEC. 2. That the said county of Breathitt shall be entitled to eleven Justices of the Peace; who, after having been commissioned, shall, on the first Monday in April, eighteen hundred and thirty nine, meet at the house of William Allen, at the mouth of Cane creek; and after taking the necessary oaths of office, and qualifying their Sheriff, they shall proceed to appoint a Clerk, to whose permanent appointment a majority of all the Justices in commission shall concur; but if such majority cannot be had in favor of any one, then the court may appoint one *pro tem.* until a majority of said court shall concur in said appointment.

Clay, Perry
and Estill, to
have jurisdiction
in all cases
&c.

SEC. 3. That the County and Circuit Courts of Clay, Perry, and Estill, and the Justices of the Peace thereof, shall have jurisdiction in law, equity, in all cases instituted before this act shall take effect; and it shall be lawful for the Sheriffs, Con-

stables, and other collecting officers in the said counties of Clay, Perry and Estill, to collect all moneys, and execute all process, as the law directs, which may be in their hands at the time this act takes effect; account for and pay over the same, according to law.

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SEC. 4. That the County Court of Breathitt county shall appoint commissioners of tax, for the year eighteen hundred and thirty nine, who shall be governed by the laws which may be in force on that subject.

Commissioners of tax.

SEC. 5. That the county of Breathitt be allowed six Constables, to be appointed by the County Court of said county, a majority of all the Justices of said Court being present, and concurring; who shall, at the time, lay off said county into districts, pursuant to law now in force on that subject; and the qualified voters in said county of Breathitt, shall vote at all general elections, held for Senators and Representatives in the State Legislature, and for members of Congress, and other officers, in the same manner; and the polls shall be compared at the same places as though this act had not passed, until the same shall be changed by subsequent enactment.

Number of constables.

To be laid off into districts.

SEC. 6. That the said county of Breathitt shall be, and the same is attached to the fifteenth Judicial District; and the Circuit Court of said county shall be holden on the third Mondays in May, August and November, and continue four juridical days at each term, provided the business therein shall require it; and the County Court of said county shall sit on the third Mondays in each month in which the Circuit Court shall not be holden.

SEC. 7. That John Speedsmith, of the county of Madison, Gabriel W. Price, of Laurel county, and Alexander Lackey, of the county of Floyd, be, and they are hereby appointed commissioners, to select a suitable place for the permanent location of the seat of justice for said county; and when said commissioners shall make report of said selection to the County Court of said county of Breathitt, the Justices thereof shall make provision for the purchase of a lot or lots of ground at said place, suitable for the erection of a court house, jail, clerks' offices, stray-pen, &c., and shall proceed to cause the same to be erected and built, as they may think necessary; and until said buildings are finished, it shall be the duty of said County Court, at the expense of the said county, to select and procure a suitable house, in which the session of the County and Circuit Courts, in and for said county, may be held.

Com'rs to select c'ty seat.

Court house, jail, &c. to be erected.

SEC. 8. That the said commissioners shall be entitled to the sum of five dollars per day, each, during the time they may be engaged in going to, locating said seat of justice, and returning home therefrom, payable out of the county levy of said county.

Pay to commissioners.

Approved February 8, 1839.

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CHAP. 1193.—AN ACT to authorize a re-survey of so much of the State road leading from Hopkinsville to Morgantown, as lies within the county of Todd.

Ct'y court of
Todd county
may appoint
com'rs, & for
what purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Court of Todd county be, and they are hereby authorized to appoint three commissioners, to review that part of the State road leading from Hopkinsville, in Christian county, to Morgantown, in Butler county, as lies within the county of Todd; and the said commissioners shall, after being sworn, proceed to the point where said road strikes the line between the counties of Todd and Christian, and from thence proceed to view and mark the nearest and best route to the point where the aforesaid road strikes the line between the counties of Todd and Logan, and report their proceedings to the said County Court of Todd; and the said commissioners shall be allowed one dollar and fifty cents, each, for every day that they may be necessarily engaged in the discharge of the duties hereby assigned them, to be paid out of the county levy of said county of Todd.

Pay to com'rs

Writ of ad
quod damnum
to be awarded.

SEC. 2. That any person over whose land said road may pass, shall have the right to obtain from the Todd County Court, a writ of *ad quod damnum*, under the provisions of the general law of this State; and the damages assessed under said writ, shall be paid by said County Court of Todd, as is directed by the provisions of said road law.

Duty of c'ty
courts.

SEC. 3. That the route designated by said commissioners shall be, and the same is hereby established a State road, and it shall be the duty of the County Court aforesaid, to lay off said road into convenient precincts, and appoint surveyors, and allot a sufficient number of hands in each precinct, to clear out and improve said road, at least twenty five feet wide; and it shall not be lawful for said County Court to alter or change said road, after the same shall have been cleared out.

Approved February 8, 1839.

CHAP. 1194.—AN ACT to provide for the permanent investment and application of the Craddock Fund.

WHEREAS, it is represented that Joseph R. Underwood, devisee in trust of the late Robert Craddock, is desirous, in effecting the benevolent and charitable intentions of his testator, to place in the hands of the Trustees of the town of Bowlinggreen, a large sum of money, and that a large majority of the citizens of said town are willing that the Trustees thereof should accept the same as a permanent loan, and to pay interest thereon, semi-annually, at the rate of six per cent. per

annum forever. Now, therefore, to enable the said Trustees to contract with the said Underwood,

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the Trustees of the town of Bowlinggreen to contract with, and borrow from, the said Underwood, devisee in trust as aforesaid, the whole or any part of the fund, held by said Underwood, in trust, under the provisions of the will of the said Craddock. The principal sum, so borrowed, never to be repaid, but interest thereon, at the rate of six per cent. per annum, to be semi-annually paid to the said Underwood, or such persons as he may appoint to receive the same, or for whose appointment he may provide in the manner hereinafter specified.

Fund may be loaned, whom to and upon what terms and conditions.

SEC. 2. That any contract made between the said Underwood and the said Trustees, shall be reduced to writing, signed by the said Underwood and the Trustees, for the time being, and recorded in the Clerk's office of the Warren Circuit Court, upon the acknowledgment thereof, by the contracting parties before the Clerk, or upon the proof of its execution, by two subscribing witnesses—copies of the contract, taken from the records of the Clerk's office, with the official certificate of the Clerk attached, verifying the same, shall be admitted as evidence, in all courts within this Commonwealth, whenever the contract or contents thereof shall come in question; and it shall be lawful for the Judge of said court, from time to time, whenever, in his opinion, it may be necessary to have the contract between said Underwood and said Trustees recorded, so as to preserve perpetual evidence of the contents thereof; and copies from the records, certified as aforesaid, shall be evidence in all courts in this Commonwealth.

Contract of loan to be in writing and recorded.

Contract to be recorded—when & where.

SEC. 3. That any and all contracts, made by the Trustees of the town of Bowlinggreen with said Underwood, within the purview of this act, shall be obligatory upon them and their successors in office forever; and the said Trustees shall have, and are hereby vested, with full power and authority to levy and collect taxes upon the value of the taxable property in said town, and from the titheable inhabitants thereof, to an amount sufficient to pay the interest which may become due, semi-annually, in virtue of any such contract: provided, however, that no tithe shall be taxed higher than \$

Contracts to be obligatory.

Trustees may levy a tax, and for what purpose.

SEC. 4. That it shall and may be lawful for the Trustees of said town of Bowlinggreen, to purchase two lots of ground, in said town, and to erect on each lot a comfortable brick school house, and other improvements, and to keep the same in repair forever; the one for a male school, and the other for a female school; and the said Trustees may stipulate, in contracting with said Underwood, to allow the use of said lots and houses, forever, to such teachers as the said Underwood, or those who may be appointed by him, or those who may be

Trustees may purchase lots & erect school houses, &c.

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appointed in pursuance of the provisions of this act, to disburse the semi-annual interest, may employ to teach school therein, and to keep said houses and improvements in proper repair; and the said Trustees shall hold said lots, (each of which shall contain half an acre of land,) and the improvements thereon forever, exempt from all manner of taxation, for the use of the teachers and their scholars, and for no other purpose whatever.

How money
shall be appro-
priated.

SEC. 5. That the Trustees of the town of Bowlinggreen, may expend and appropriate the money received and borrowed from the said Underwood in any manner they may deem most conducive to the interest of the citizens of said town, not forbidden by the Constitution and laws of the land.

Board of man-
agers may be
appointed, by
whom, their
powers and du-
ties.

SEC. 6. That it shall and may be lawful for the said Underwood to appoint a board of managers, not exceeding four in number, or to provide for the appointment of such board of managers, by the Trustees of the town of Bowlinggreen; said managers to have power, whenever said Underwood shall think proper, to relinquish the management of the trust fund, to manage superintend and apply the same in the manner said Underwood may prescribe and direct. It shall be lawful for the said Underwood to prescribe the qualifications which the said managers shall possess, as well as the manner of their appointment, in endless succession, and how vacancies, occurring in their body, shall be filled; and that the powers, duties, manner of appointment, and entire organization of said board of managers, may be fully known, it shall be lawful for the said Underwood to prescribe all needful rules and regulations on the subject, and deliver a copy thereof to the Trustees of the town of Bowlinggreen for record, upon their books, and to have a copy of the same recorded in the Clerk's office of the Warren Circuit Court; which rules and regulations, so prescribed, shall govern and control the management and application of the trust fund, or the semi-annual interest, to be paid as aforesaid, until it shall be the pleasure of the General Assembly of the Commonwealth to repeal, change, or modify the same—power to do which is with the consent of the said Underwood, hereby reserved to the General Assembly; copies of the rules and regulations prescribed by the said Underwood, as herein provided, taken from the records of the Clerk of the Warren Circuit Court, and certified by him officially, shall be evidence in all courts, and other places in this Commonwealth. The Judge of the Warren Circuit Court may, from time to time, have the rules and regulations aforesaid recorded, so as to preserve perpetual evidence of the contents thereof.

How appoint-
ed to be made
known, &c.

Copy of same
to be recorded
& be evidence,
&c.

Underwood
absolved from
liability, &c.

SEC. 7. That the said Underwood shall be absolved from all liability whatever, for, and on account of, the sums of money which he, as devisee in trust, may lend to the Trustees of Bowlinggreen, in the manner herein provided, after the same are paid over to them, or their Treasurer; nor shall he be

liable to any chancellor, or other jurisdiction, in case the managers waste or misapply the interest or funds which may come to their hands.

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Approved February 8, 1839.

CHAP. 1195.—AN ACT for the benefit of the heirs and representatives of Robert Branham and John Samuel.

WHEREAS, Robert Branham, in the year eighteen hundred and fourteen, executed a bond to the Commonwealth of Kentucky, with John Samuel as his security, for seventy five stand of arms; and there is reason to believe that said arms were duly returned—wherefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said bond be cancelled, and the representatives and heirs of said Branham and Samuel, be, and they are hereby released from all liability on said bond.

Approved February 8, 1839.

CHAP. 1196.—AN ACT for the benefit of Mentor A. Shanks and Hannibal Abell.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue a warrant on the Treasurer, in favor of Mentor A. Shanks, and Hannibal Abell, of Meade county, for the sum of twenty five dollars and twenty five cents, (being the balance of the actual expense incurred by them, in conveying to the Lunatic Asylum, John W. Simmons, a lunatic,) to be paid out of any money in the Treasury, not otherwise appropriated.

Approved February 8, 1839.

CHAP. 1197.—AN ACT to authorize the Trustees of the Brandenburg Academy to sell and convey a certain lot.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that the Trustees of the Brandenburg Academy are seized and possessed of certain real estate, to wit: a lot of ground in the town of Brandenburg, supposed to contain two acres, conveyed to the Trustees of said Academy, by Alfred Hoskins, on the second day of May, eighteen hundred and thirty six; which lot of land, the present

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Trustees of said Academy desire to sell, and appropriate the proceeds to the improvement of other lots belonging to said Academy, and paying any balance due for said lots—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the present Board of Trustees, and their successors in office, or a majority of them, be, and they are hereby vested with full power and authority to sell and convey said two acres of land, for the purposes aforesaid.

Approved February 8, 1839.

CHAP. 1198.—AN ACT for the benefit of William Herd.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby authorized to issue his warrant on the Treasury, in favor of William Herd, for the sum of eighteen dollars, to be paid out of any money in the Treasury not otherwise appropriated.

Approved February 8, 1839.

CHAP. 1199.—AN ACT for the benefit of James W. Bowers, Jailer of Campbell county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby authorized and required, to issue a warrant on the Treasurer, in favor of James W. Bowers, Jailer of Campbell county, for the sum of forty three dollars and fifty four cents, to be paid out of any money in the Treasury, not otherwise appropriated.

Approved February 8, 1839.

CHAP. 1200.—AN ACT authorizing a toll gate to be erected between Stanford and the Hanging Fork, in Lincoln county, and between the Anderson line and a point five miles towards Harrodsburg.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the Board of Internal Improvement in Lincoln county, to erect a toll gate on that part of the road between Stanford and the Hang-

ing Fork, at any time before the bridge across said stream is completed; at which gate they may charge and receive the same tolls that are authorized in the charter incorporating said Company.

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SEC. 2. That it shall be lawful for the Board of Internal Improvement for Mercer county, to erect a toll gate upon that part of the turnpike road between the Anderson county line and a point five miles on said road toward Harrodsburg, and to receive the same tolls which are allowed by law, until said Board shall complete a bridge on said road: provided, that this act shall continue and be in force for nine months only.

Approved February 8, 1839.

CHAP. 1201.—AN ACT for the benefit of the widow and heirs of Michael Chism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the widow and adult heirs of Michael Chism, deceased, shall be, and they are authorized and empowered to file their bill in chancery, in the Monroe Circuit Court, setting forth that the said widow, who, under the will of said Michael Chism, deceased, is entitled to a life estate in the real estate of said Michael Chism, deceased, has made an advantageous sale of said real estate, with a view to investing the proceeds thereof in lands in the State of Missouri, for the benefit of said heirs; and upon said infant heirs being served with process, and answering said bill by their guardian *ad litem*, provided the allegation of said bill shall be made manifest by sufficient proof, it shall and may be lawful for the Judge of said court to require said widow to enter into bond with sufficient surety or sureties, in the penalty of double the amount of the proceeds arising from the sale of said land, conditioned for the faithful investment of said proceeds, in lands in the said State of Missouri; the title whereof shall be taken and held in conformity with the provisions of the will of said Michael Chism; and upon the said bond being entered into, the Judge of said court shall be authorized to appoint a commissioner to convey the title of the said infant heirs to the purchaser, and if practicable, to render a final decree in said case, at the first term of said court, after the filing of the petition by said widow and adult heirs.

Bill in ch'y
may be filed—
by whom & for
what purpose.

Power & du-
ty of the court.

How proc'ds
of sale to be ap-
plied & vested.

Approved February 8, 1839.

CHAP. 1202.—AN ACT to amend the several acts incorporating the Henderson, Madisonville and Hopkinsville Turnpike Road Company.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the further time of two years

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from and after the passage of this act, be allowed to the commissioners of the Henderson, Madisonville and Hopkinsville Turnpike Road Company, to open books for the subscription of the capital stock of said Company, and that the several acts incorporating said Company be, and the same are hereby continued in force, as provided for in said acts, and this amendment.

Capital increased, & two for one to be taken by the State.

SEC. 2. That the capital stock of said Company be, and the same is hereby increased to one hundred thousand dollars; of which the State is to take two dollars for one subscribed by individuals, companies, or corporations; to be subscribed and paid in by the State, on the conditions and terms prescribed by "an act to amend the charter of the Henderson, Madisonville and Hopkinsville Turnpike Road Company, approved February 15, eighteen hundred and thirty eight."

Com'rs. added.

SEC. 3. That Zachariah Glass, Strother J. Hawkins, John Bryan, and Abraham Stites, be, and they are hereby added to the commissioners in Christian county, named in one of the acts to which this is an amendment, for opening the books for the subscription of the capital stock in said company.

Approved February 8, 1839.

CHAP. 1203.—AN ACT for the benefit of the Clerks of the Henderson, Barren, Simpson, Logan and Union Circuit and County Courts.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Auditor of Public Accounts be, and he is hereby authorized and required to settle the accounts of William D. Allison, Clerk of the Henderson Circuit and County Courts, without requiring from said Clerk any list of claims allowed him by said courts; and that said settlement be made, and a warrant be issued by the Auditor, on the Treasury, in favor of said Clerk, in all respects as if a complete list of his claims for the years eighteen hundred and thirty seven and eighteen hundred and thirty eight, had been furnished to the Auditor, by said Clerk, as required by an act requiring certain duties of the Clerks of this Commonwealth, approved January 16th, eighteen hundred and twenty nine.

SEC. 2. That the provisions of this act be extended to the Clerks of the Circuit and County Courts of Barren, Simpson, Logan and Union counties.

Approved February 12, 1839.

CHAP. 1204.—AN ACT for the divorce of Hugh Lane.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the marriage contract heretofore

existing between Hugh Lane and his wife, Malinda M. Lane, be, and the same is hereby dissolved; and that the said Hugh Lane be restored to all the rights and privileges of an unmarried man.

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SEC. 2. That the said Malinda M. Lane be, and she is hereby re-invested with the right to any and all estate, real, personal or mixed, which she owned or held in law or equity, at the time of her said marriage with the said Hugh Lane, or that may have been devised or descended to her since her said marriage, in as full and ample a manner as if said marriage had never existed.

Approved February 12, 1839.

CHAP. 1205.—AN ACT prescribing the duties of Keeper and Clerk of the Penitentiary.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That for the purpose of making a final settlement with the present Keeper of the Penitentiary, up to the first of March, eighteen hundred and thirty nine, when the time for which he was appointed expires, the raw material, stock, and manufactured articles on hand, shall be valued by two disinterested persons, to be selected by the Commissioners of the Sinking Fund, as soon as practicable after the passage of this act; and said valuers shall take an oath before some Justice of the Peace, faithfully and impartially to value said property, at a fair, wholesale, cash value, and annex the value to each article thereof, and return the same to the Commissioners of the Sinking Fund, to be by them preserved; and said valuers shall make a complete inventory of the tools and implements of trade in the Penitentiary, and annex the value to each article, and the same shall be compared with the receipt of the Keeper, for the tools and implements of trade, which were on hand when he came into office, now on file in the Auditor's office, and if the same shall fall short of the valuation made in said receipt, the Keeper shall be charged with the deficiency; and if they exceed the valuation in said receipt, the Keeper shall be credited with one half of the excess; and it shall be the duty of the Commissioners of the Sinking Fund, and they are hereby authorized, to settle with the present Keeper, and to divide the raw materials, stock, manufactured articles, debts and effects, belonging to the Penitentiary, in which the Keeper and Commonwealth are jointly interested, in such manner as to provide for the payment of the debts, and the return of the six thousand dollars, with interest, which was advanced to the present Keeper, when he was appointed Keeper, and to divide the profits equally between the Commonwealth and the said Keeper, in accordance with the law

Materials,
stock, &c., to
be valued.

Inventory of
tools, &c.

Settlement
with Keeper.

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under which he become Keeper ; the said valuers shall, also, make an inventory of the machinery now on hand, and annex the value to each article, with the view of being handed over to the new Keeper.

Capital to be
loaned to keeper
when appointed.

SEC. 2. That a capital of twenty five thousand dollars, if there be so much belonging to the Commonwealth, shall be set apart, out of the raw materials, stock, manufactured articles, debts and effects, aforesaid, as a capital and fund for the more efficient and profitable management of the Penitentiary, and shall be loaned to the Keeper, to be appointed under this act, for and during the time he may be in office, at an interest of six per cent. per annum, to be paid by the Keeper, semi-annually, to the Commissioners of the Sinking Fund. And a Keeper of the Penitentiary shall be elected by a joint vote of the Legislature, at the present session, who shall have the entire control and management of said institution, except as otherwise provided for by law, and shall continue in office until the first day of March, 1844 ; subject, however, to be removed by the Legislature, whenever he shall fail to manage the institution in such manner as the interest of the State may require, and the law directs.

Election of
keeper.

Materials,
&c. to be de-
livered over to
him.

SEC. 3. That the Commissioners of the Sinking Fund shall deliver over to said Keeper, the raw materials, stock, manufactured articles, debts and effects, which the Commonwealth shall receive in the settlement with the present Keeper, to the value of twenty five thousand dollars, if there be so much, and if not so much, then so much as there shall be, and take his receipt therefor, and file the same with the Auditor of Public Accounts ; they shall, also, deliver over to him, the tools and implements of trade in the Penitentiary, and take his receipt for the same, on the inventory, with the value annexed to each article aforesaid, and file the same with the Auditor of Public Accounts ; they shall, also, deliver to him all the machinery now on hand, and take his receipt on the inventory, with the value annexed to each article, as aforesaid, and file the same with the Auditor of Public Accounts.

Keeper to
pay as much as
he receives
when he leaves
the institution.

SEC. 4. That said Keeper shall pay the principal sum for the raw materials, stock, manufactured articles, debts and effects, which he shall receive from, and receipt to, the Commissioners of the Sinking Fund for, whenever he shall cease to be Keeper, or leave in the Penitentiary an equal amount of raw material, stock, and saleable manufactured articles, at a fair cash, wholesale price, after settling and paying to the State that part of the profits which shall be coming to the Commonwealth under the provisions of this act ; he shall also pay to the Commonwealth the principal sum for the tools and implements of trade which he shall receive and receipt for, or leave for the Commonwealth, tools and implements of trade of an equal, wholesale cash value, when he ceases to be Keeper ; and he shall pay to the Commonwealth the principal sum for the machinery which he shall receive and receipt for, when he ceases

to be Keeper, or leave for the Commonwealth, machinery fit for the use of the institution, of equal, wholesale value; and he shall settle with the Commissioners of the Sinking Fund, on the first of December, in each year, and pay over to them, the profits which the Commonwealth shall be entitled to under this act: provided, such profits can be had out of the cash on hand, bills of exchange, or notes; or should the Commissioners of the Sinking Fund, in case such profits cannot be had as aforesaid, be of opinion that they can make a proper disposition of any of the manufactured articles, so as to turn the profits of the State into cash, they shall have the right to do so, but not to take any portion of the raw materials or stock on hand for this purpose.

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To settle annually.

SEC. 5. That it shall be the duty of the Keeper to employ not less than four suitable persons as a guard for the safe keeping of the convicts, one of whom shall be selected as an assistant Keeper; and he shall employ a Physician to attend to the health of the prisoners: provided, that no person shall be employed as a guard, assistant Keeper, or Physician, without the approbation of the Governor.

Assistant keeper & guards.

SEC. 6. That the said Keeper shall be at liberty to erect in said institution, at joint expense, such additional machinery as he may deem best calculated to promote the interest of the institution: provided, he shall first obtain the approbation of the Commissioners of the Sinking Fund: and provided, also, that all machinery so erected, shall, at the expiration of the time said Keeper may continue in office, be the sole property of the State.

Additional machinery may be erected.

SEC. 7. That it shall be the duty of the said Keeper to take upon himself the whole management and expense of said institution, in such manner as he may deem best for the interest thereof; to provide for the clothing and victualling the convicts, for their guard and safe keeping, and to defray all other expenses incident to the management and well being thereof, and to see that an accurate account thereof, together with the proper vouchers upon which such account is founded, is rendered to the Clerk, to be entered by him upon the books of the Penitentiary.

Duties of the keeper.

SEC. 8. That the said Keeper shall receive as a compensation for his services and liabilities, in the management of said institution, one equal moiety of the net profits thereof, after defraying all the expenses of the institution, and expenditures authorized and required by this act; and in the event of his removal or death, he, or his representatives, as the case may be, shall be entitled to his just proportion, up to that time, of the net profits of said institution.

His compensation.

SEC. 9. That before the Keeper shall enter upon the discharge of the duties of the office, he shall take the following oath: "I do solemnly swear that I will faithfully and impartially discharge the duties of Keeper of the Penitentiary, according to law." And the said Keeper shall, also, enter into

His oath and bond.

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bond, in the office of the Secretary of State, with five or more sureties, to be approved of by the Governor, in the penalty of fifty thousand dollars, payable to the Commonwealth of Kentucky, conditioned that he will faithfully perform the duties of Keeper according to law, and perform all the duties imposed by this act, and refund to the Commonwealth the full amount to which the raw materials, stock, and manufactured articles now on hand, may be valued, and for which he is required to give a receipt, under the third section of this act, with interest at the rate of six per cent. per annum thereon, payable semi-annually, the principal to be paid at the expiration of his term of service; and that he shall account for all tools, implements of trade, and machinery, as required by this act, and pay to the Commissioners of the Sinking Fund, at the close of each year, as provided in the fourth section, such proportion of the profits as may be due to the State, which bond shall be filed with the Auditor, and may be sued upon on behalf of the Commonwealth, as often as the conditions thereof are violated.

SEC. 10. That the Keeper shall make an annual report to the Legislature, during the first week of its session, of the general condition, operations, and business of the institution.

Reprieve.
State to receive annually,
\$5,000.

SEC. 11. That the exercise of the right of reprieve or pardon by the Governor, shall not in any way be considered by the Keeper as a violation of the provisions of this act: provided, however, that if the State's proportion of net profits of said institution shall, in any year, fall short of the sum of five thousand dollars, including any account which the State may make with said institution, together with the State's proportion of expenses for building, as provided for in the seventeenth section, the said Keeper shall make up the deficiency, so as to guarantee a clear profit to the State of at least five thousand dollars.

If the keeper
die or fail to
qualify, &c.,
Gov. to appoint
one.

SEC. 12. That in the event of the death of the Keeper, or his refusal to qualify or give bond, agreeable to the provisions of this act, it shall be the duty of the Governor to appoint a Keeper of the Penitentiary, who shall continue in office until the end of the next session of the Legislature, unless otherwise provided for by law.

Clerk & his
duties.

SEC. 13. That the Governor, with the advice and consent of the Senate, shall appoint a Clerk for the Penitentiary, to continue in office two years, whose duty it shall be to keep a true and faithful account of all the transactions of every kind, relating to the business, contracts, expenditures and income of said institution, and to make quarterly reports to the Commissioners of the Sinking Fund, stating therein the debts and credits, and balances for and against the institution, and when due to and from the same. It shall also be his duty to keep a journal, ledger, and cash book, in which the accounts of the institution shall be fully and fairly entered, according to the usual course of business and book keeping, and have the accounts which may accrue each week, posted up at the end thereof.

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provided, that said Clerk shall, before he enters upon the duties of his office, take an oath, before some Justice of the Peace, faithfully and impartially to discharge the duties of Clerk of the Penitentiary; and shall, also, execute bond, to be approved of by the Governor, and filed in the Auditor's office, in the penalty of ten thousand dollars, with good and sufficient security, payable to the Commonwealth of Kentucky, conditioned that he will well and truly and faithfully perform, as Clerk of the Penitentiary, all the duties enjoined on him by law, or which may appertain to the duties of his office as Clerk.

Sec. 14. That the Governor shall have the power to remove the Clerk, at any time, for incompetency or misdemeanor in office, and appoint another in his place; and should it become necessary, by reason of the sickness or death of the Clerk, or any other accident, that another Clerk should be appointed, the Governor shall make such appointment, pro tem. as he may deem necessary, which Clerk, so appointed, shall take the like oath, and enter into like bond, until another is appointed as prescribed in section thirteenth of this act.

Clerk may be removed & another appointed.

Sec. 15. That the books of said Clerk shall, at all times, be open to the inspection of any committee of the Legislature, and to the Commissioners of the Sinking Fund; and that said Clerk shall receive the sum of twelve hundred dollars per annum, which shall be paid him by the Keeper of the Penitentiary, quarterly, out of the joint profits of the institution; and the Clerk shall, in addition, receive ten per cent. on the full annual profit coming to the Commonwealth, over and above five thousand dollars per annum, to be paid to the Commonwealth.

Books to be opened for inspection.

Salary of clerk.

Sec. 16. That if said Clerk shall make any false or fraudulent entry, or omit to make any entry that he should make, with a fraudulent intent, it shall be the duty of the Governor and Commissioners aforesaid, forthwith, to remove him from office, and he shall be liable, moreover, to be indicted in the Circuit Court of Franklin county, and be fined in any sum not exceeding one thousand dollars.

Clerk may be removed & fined for malfeasance in office.

Sec. 17. That said Keeper shall erect, in said institution, at the joint expense of the Keeper and the Commonwealth, a suitable building, to embrace not more than two hundred and fifty dormitories, or sleeping apartments, in lieu of those now in use, having regard as well to health and comfort, as to the safe keeping of the prisoners in separate and solitary confinement; and he shall cause a just and true account to be kept, by the Clerk of the Penitentiary, of the expense of said building; for the information of the Legislature; the Commissioners of the Sinking Fund shall procure a plan for said building, and an estimate of the cost of the same, and may authorize the Keeper to build the same in one or more years. That if said building should cost more than twenty thousand dollars, that the Commonwealth shall be charged with the excess of such cost out of her share of the profits; and so soon as said

New building authorized to be erected.

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building shall be completed, the Commissioners of the Sinking Fund shall receive, from the Keeper, the account of the expense of said building, and appoint two disinterested persons to examine the account and the building, and to estimate the value thereof, and make out two copies of the same, one for the Keeper, and return the other to the Commissioners of the Sinking Fund.

Raw materials are not to be purchased on credit.

SEC. 18. That the Keeper, to be elected under this act, shall be considered as bound to furnish the capital requisite to carry on the Penitentiary, and he shall not purchase raw material, stock, or provisions, on credit, without the written consent of the Commissioners of the Sinking Fund, and he shall have the right to pay up, at any time, the amount of the raw material, stock, manufactured articles, debts and effects which he shall receive on going into office, and relieve himself from the interest.

Board of visitors.

SEC. 19. That the Auditor, Treasurer, Register, and Attorney General, be, and they are hereby, appointed a board of visitors; whose duty it shall be to visit the Penitentiary as often as they may deem proper, and at least once in each month, and make examination of the state of the institution, the health of the convicts, the manner of dieting them, the cleanliness of the cells, and the treatment of the convicts generally, and make such report to the Legislature as the condition of the institution may require.

Moral and religious instruction.

Tobacco & pay to convicts when discharged.

SEC. 20. That the sum of two hundred and fifty dollars shall be annually expended for the moral and religious instruction of the convicts; that tobacco, in such quantities and at such times, as may be necessary, be furnished to the convicts; and that the Keeper shall pay to any convict who has been confined in the Penitentiary, when he shall be discharged therefrom, the sum of five dollars, all of which expenses shall be paid out of the profits of the institution.

Addition to Library.

SEC. 21. The sum of one hundred dollars is hereby appropriated, to purchase, under the direction of the Governor of this Commonwealth, an additional number of moral and religious books, to be added to the present library, in the Penitentiary; and said Keeper shall have said books given out and returned every week, so that they shall be well taken care of.

Approved February 14, 1839.

CHAP. 1206.—AN ACT for the benefit of Harrison Rankins, and wife, and children.

WHEREAS, it is represented that William Rankins, by his last will and testament, devised to Martha Rankins, Paul Rankins, Elijah Rankins, and Rufus Rankins, infant sons and daughters of Harrison Rankins, and wife, of Bracken county,

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Kentucky, one equal third part of a tract of land on which said Harrison and wife and children at present reside, James Rankins and Blackstone Rankins owning the other two thirds; that said devise was made to said infant children of Harrison Rankins, deceased, for their own use and benefit, and to them as Trustees, for the use and benefit of their father and mother, during life, and then to said infants in perpetuity; and whereas, it is further stated, that said tract of land remains undivided, and is very broken, and only valuable for its timber, and the ease with which it may be carried to the Ohio river; and that it would redound to the advantage of all, to sell the same, and vest the proceeds in lands in some of the western States, better adapted to cultivation; and that said Harrison Rankins and wife are willing that such disposition shall be made; but that the case is not such an one as is provided for by law—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That said Harrison Rankins and wife may file a petition in the Bracken Circuit Court, in conjunction with the guardian of their said infant children first appointed by the County Court of said county, setting forth all the facts as it regards their interest in the undivided third part of the tract of land willed to said Harrison's infant children, in trust for their own use, and the use of their father and mother, and all the advantages and disadvantages attending a division of the same, and their opinion whether it will redound to the interest of all, to sell and dispose of the land, and vest its proceeds in other lands for the same purposes; and that said court shall appoint two discreet persons to report the value and situation of the land, and their own opinion whether a sale, under all the circumstances, will add to the welfare of the parties concerned; and upon the coming in of such report, if it shall appear to the court that a sale of said land, and vesting the proceeds in other lands, will redound to the benefit of all the parties, said court may enter up a decree for such sale, upon such credits as in its opinion will be most to the interest of all; and upon the payment of the purchase money, may order a conveyance to be made; but no decree for a sale shall be made, until the guardian appointed by the County Court, shall, in addition to his bond there, enter into another bond, before the Bracken Circuit Court, with security, to be approved by the court, for the faithful appropriation of the proceeds arising from the sale of said land under this act, and according to the decree of the Bracken Circuit Court: provided, however, that no decree shall be rendered herein, until the court shall have first ascertained, by a privy examination of the wife of said Harrison Rankins, that she freely and voluntarily assents to the decree which the court is about to render: and provided, further, that the said decree shall direct the lands to be acquired with the purchase money of the lands decreed to be sold, shall be held in trust, in the same manner as the lands devised by the said William Rankins.

A sale of
land authorized

Guardian to
give bond.

Relinquish-
ment of dower.

Purchase money,
how vested.

Approved February 14, 1839.

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CHAP. 1207.—AN ACT to amend the seventh section of an act to prevent the increase of vagrants and other idle and disorderly persons in this State.

Jurisdiction
given to circuit
courts.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That an act, entitled, an act to prevent the increase of vagrants, and other idle and disorderly persons within this State, approved December fifteenth, seventeen hundred and ninety five, shall be so amended as to take from the County Courts the jurisdiction given by said act, and to vest the same in the Circuit Courts, and so as to require the Justices of the Peace to make the recognizances to be returnable to the Circuit Court, instead of the County Court.

Vagrants
not to be tried
unless presented
or indicted
by a grand jury

SEC. 2. That no person shall be tried as a vagrant, in the Circuit Court, until presented or indicted as such; and it shall be the duty of the Justices of the Peace before whom any person is brought, on a charge of vagrancy, to make out a statement of the evidence, and to recognize the witnesses to appear at the next Circuit Court, in all respects, as in cases of felony.

Capias to
issue.

Bail.

SEC. 3. That when a person shall be indicted or presented as a vagrant, it shall be the duty of the court to cause a writ to be issued, for the apprehension of such vagrant, as if indicted for felony; but the Clerk shall endorse on the capias, that the party may give bail himself, in the penalty of one hundred dollars, with one or more securities, in a like sum, conditioned for his appearance in court, at the time appointed by the writ, and answer the charge, and not depart without the leave of the court; and the trial shall, in all respects, proceed as in an indictment for a high misdemeanor.

Jury and ver-
dict.

This act not
to apply to the
police court of
Louisville.

SEC. 4. That the Jury, on finding any person a vagrant, shall determine the time which he shall be bound out, not exceeding one year; and it shall be the duty of the court to bind out such vagrant, or to direct the Sheriff to sell him to the highest bidder, at the court house door, for the time specified in the verdict of the jury. But nothing in this act shall be construed so as to change the character of the finding and sentence against vagrants in the Police Court of Louisville; and all acts, or parts of acts, so far as they conflict with this act, are repealed.

Approved February 14, 1839.

CHAP. 1208.—AN ACT for the benefit of the Clerks of Clinton, Adair, and Cumberland counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the provisions of an act, entitled, an act

for the benefit of William Butler, Clerk of the Monroe County Court, passed at the present session, shall apply to Rice Maxey, Clerk of the Clinton Circuit and County Courts; William Caldwell, Clerk of the Adair Circuit and County Courts, and to Milton King, Clerk of the Cumberland Circuit and County Courts.

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Approved February 14, 1839.

CHAP. 1209.—AN ACT to authorize a change of venue in the trial of John S. Lasley.

WHEREAS, it is represented to the present General Assembly, that John S. Lasley is charged and held to bail in the county of Hardin, for the alleged offence of having stolen a sum of money and bank notes from Charles Friend, of said county; and that owing to unjust prejudices, which exist against him in said county, in relation to said charge, he cannot have a fair and impartial trial in said county—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the said John S. Lasley to appear in the Hardin Circuit Court, on the first or the second day of their next March term, and make his election to be tried in said court, or the Hart Circuit Court; which election shall be noted of record; and thereupon it shall be the duty of the Hardin Circuit Court, in case the said Lasley shall elect to be tried in the Hart Circuit Court, to take his recognizance, with sufficient security, to appear and answer the said charge, in the Hart Circuit Court, at its next term thereafter; and the Hart Circuit Court shall take jurisdiction of the case, and act thereon, in every respect as though the offence charged had been committed in that county; and in case the said Lasley be found guilty, be proceeded with by the court and its officers, in all respects as though the offence had been committed in Hart county.

Venue changed from Hardin to Hart Circuit Court.

SEC. 2. That nothing in this act shall prevent the Circuit Court of Hardin county, and its several officers, from proceeding to find an indictment against said Lasley, at their next term, for the offence charged; in case the Grand Jury should, after hearing the proof on the part of the Commonwealth, so determine; and the witnesses and other persons shall be required to give the same attendance in said case, at the next term of said Hardin Circuit Court, as though this act had not been passed.

Indictment may be found in Hardin.

SEC. 3. That in case said Lasley shall elect to be tried in the Hart Circuit Court, under the provisions of this act, and upon being required to give bail for his appearance in said court, to answer the said charge, he should fail or refuse to do so, it shall be the duty of the Judge of the Hardin Circuit Court, to cause him to be removed to said county, by the Sheriff, or some

If bail be not given, the sh'ff. to convey prisoner to the jail of Hart.

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other person to be appointed by him, for that purpose; and the Sheriff or other person removing said Lasley to the county of Hart, shall deliver him to the Jailer of said county, and take his receipt therefor; who shall keep him in the jail of said county, until discharged by law, as though he had been arrested, and committed for a like charge, in said county; and the Sheriff or other person conveying him to Hart county, shall be entitled, as a compensation, to twelve and a half cents per mile, in going to and returning from said county of Hart, to be paid out of the Public Treasury, on certificate of the Clerk of said Hart Circuit Court that the services have been performed.

Guards may
be summoned.

SEC. 4. That the Judge of the Hardin Circuit Court may order such guards and assistants to the Sheriff removing said Lasley, as he may think necessary; to be paid such compensation for their services, upon certificate of such Sheriff or other person, of their having been rendered, as is allowed by law, to guards of convicts to the Penitentiary, and to be paid in the same way; and it shall be the duty of the Clerk of the Hardin Circuit Court to transmit to the Hart Circuit Court, the whole of the papers in relation to the charge against said Lasley, that may be in his custody, as Clerk, whenever an indictment may be found against him in said court, upon the charge aforesaid; and copies of all orders of court that may have been made in relation to said charge; which papers shall be transmitted by the Sheriff of the county, or by other safe conveyance.

Papers to be
transmitted.

Witnesses
recognized.

SEC. 5. That it shall be the duty of the Hardin Circuit Court, whenever said Lasley may elect to be tried in the Hart Circuit Court, to take recognizances from the witnesses of the Commonwealth, for their appearance in said county of Hart, and to give testimony in said case, at the next term of said court; who shall be entitled to the same per diem and mileage, as if they had been summoned in their respective counties.

Penalty on
clerk & sheriff
for failing to
comply with
this act.

SEC. 6. That if either the Clerk or Sheriff of Hardin Circuit Court shall fail to comply with all or any part of the duties imposed by this act, they, and each of them, for each and every failure of duty, shall be subject to a fine of one hundred dollars, recoverable on reasonable notice thereof, or by a rule of the Hardin Circuit Court, upon reasonable notice first given, in favor of the Commonwealth, on motion of the Commonwealth's Attorney, to be applied as like fines now are, in aid of the Jury Fund.

Approved February 14, 1839.

CHAP. 1210.—AN ACT to incorporate the Mayesville Lyceum.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the present members, and those*

who may hereafter become shareholders in the Maysville Lyceum, and their associates and successors, be, and they are hereby made and constituted a body politic and corporate, by the name and style of "The President and Directors of the Maysville Lyceum;" and shall embrace, as its immediate objects, the creation of a City Library, a Public Reading Room, and a Literary Club; and are hereby made able and capable in law, to have, receive, possess, enjoy, and retain to them and their successors, such lands, tenements, hereditaments, goods, chattels and effects, as they may deem necessary for the advantage of said company, and for the promotion of literature and education, provided the same does not amount to more than twenty thousand dollars; and the same to sell, grant, demise, alien and dispose of, at pleasure; also, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity; and shall be and are hereby vested with all the privileges and powers which by law are incident to corporations of a similar nature; also, to make, have and use, a common seal, and the same to break, alter, or renew, at pleasure; also, to ordain, establish, and put in execution, such by-laws, ordinances and regulations as shall be necessary and convenient for the government of said corporation, and which are not contrary to the constitution and the laws of this Commonwealth; and generally to do and execute, all and singular, the acts necessary to carry into effect the objects of this charter.

SEC. 2. That the capital and property held by the members of the said Lyceum, shall be, and is hereby divided into shares of five dollars each; and every holder thereof shall have a certificate, under the seal of the said company, signed by the President, and attested by the Secretary; and said stock may be alienated or transferred by the proprietor thereof, in such manner as the president and directors may determine, and said stock shall be held and deemed personal estate, and pass to the executor or administrator on the demise of the holder thereof; and each and every stockholder, at all elections, and on all questions touching the interest of said corporation, in which the stockholders are called on to vote, shall be entitled to one vote for each share of stock held by him, and may vote either personally or by proxy.

SEC. 3. The officers of the Lyceum shall be a President, two Vice Presidents, a Secretary, Librarian, Treasurer, and a Board of Directory of seven, the President and two Vice Presidents to constitute three of said board; the Librarian and Treasurer to be appointed by the board of directory, and the other officers chosen by ballot, at the last meeting in each year, or so soon thereafter as may be convenient; the old officers and board of directory to continue in office until their successors are elected or appointed; and in case of the death or resignation of any officer or director, the vacancy shall be filled as heretofore directed; and no person shall hold any office in said

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Incorporated
and powers of
President and
Directors.

Stock.

Officers.

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Lyceum, who is not a member. Fifteen of the members shall constitute a quorum of the Lyceum, and four shall be a quorum of the board of directors.

President &
directors may
increase their
stock, levy and
collect fines &c

Provide.

SEC. 4. That the president and directors for the time being, shall have power to increase their members and stock, within the limit aforesaid; to levy and collect fines, and forfeitures and taxes, and contributions, from its members, and those that may attend their library and reading room, and those that may attend their lectures and debates: provided, that each member or shareholder shall be at liberty, at all times, to transfer and relinquish to said Lyceum, his share or shares; and shall forever thereafter be released from all further contributions on account thereof.

Mem's may
be expelled.

SEC. 5. The said Lyceum shall also have power to expel any member or shareholder, according to the mode which may be designated by the constitution or by-laws.

Right to re-
peal this act re-
served.

SEC. 6. The Legislature reserves to itself the right to amend or repeal this charter; but if it shall be repealed, the property of the corporation shall pass to the several members, in the same manner as if it had been dissolved by mutual consent: each member to take, according to the number of shares held. And the board of directors for the time being, shall have power to divide said property among the stockholders, or sell the same, and divide the proceeds, as may seem most expedient.

Approved February 14, 1839.

CHAP. 1211.—AN ACT to repeal so much of the 79th section of the militia law, as requires the militiamen to carry guns to muster.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the seventy ninth section of the Militia Law, as imposes a fine of fifty cents on individuals for not carrying guns to muster, be, and the same is hereby repealed.

Approved February 14, 1839.

CHAP. 1212.—AN ACT for the benefit of Rebecca Evans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Morgan Circuit Court be hereby authorized to support and keep Rebecca Evans, a lunatic, by orders drawn on behalf of her committee, from time to time, on the Auditor of Public Accounts, without causing her to be put in the Lunatic Asylum, in like manner, and under such restric-

tions as are provided by law, in regard to idiots: provided, that said allowance shall have relation to, and take effect from, the sixteenth day of October, eighteen hundred and thirty eight, the day on which she was duly found, by inquisition, to be a lunatic.

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Approved February 14, 1839.

CHAP. 1213.—AN ACT for the benefit of Mary McBrayer, and her children.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for Mary McBrayer, and her infant children, Francis McBrayer, Lucy Jane McBrayer, and Susan W. McBrayer, by their next friend, to file their bill in chancery, in the Jessamine Circuit Court, setting forth that the said Mary and her said children, are the persons for whose use a tract of land, of about thirty acres, lying and being in the county of Jessamine, was conveyed by deed, of record in the Clerk's office of the Anderson County Court, to Andrew McBrayer and Francis Lowen, as their trustees, and that they believe it would redound to the interest of the said Mary and her children, to have a sale of said tract of land, and the proceeds invested in another tract, in the State of Missouri, for their benefit; and they shall, also, make the trustee or trustees of said estate, defendants to said bill, and have process duly served upon them. Upon the filing of said bill, verified by affidavit, the Circuit Court of the county of Jessamine is authorized, if it shall deem prudent, under all the circumstances of the case, to decree a sale of said tract of land, and to invest the proceeds in other lands, in the State of Missouri, for the use and benefit of said Mary and her children.

A sale of land authorized

SEC. 2. That it shall be the duty of said court to appoint some fit person as commissioner, to make said sale, and to make the investment in other lands, in the State of Missouri, to be held in trust, for the uses aforesaid, according to the intent and meaning of said deed of trust; and for that purpose the court may substitute a trustee, to whom the conveyance shall be made, in the same manner that the estate directed to be sold was held.

Com'r. to be appointed to sell and invest proceeds.

SEC. 3. That the court shall have power to exact of the trustee or commissioner, such bond and such security, as it may deem proper; and shall require the commissioner to make report of the sale, as well as the investment of the proceeds, giving to said court full power and authority to make all such further decrees and orders as the justice of the case may require, and as are consistent with chancery practice.

Trustee or com'r. to give bond.

Approved February 14, 1839.

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CHAP. 1214.—AN ACT to amend the law concerning the action of Trespass.

The wife & children of a person killed in a duel may have an action against all surviving, who were engaged.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That when any person shall be killed in a duel, either within or without this Commonwealth, and shall have a surviving wife, and minor children, or a surviving wife, or surviving minor children, the surviving wife and minor children, or the surviving wife, or the surviving minor children, as the case may be, shall have an action of trespass, in any Circuit Court of this Commonwealth, having jurisdiction, against the surviving principal, and the seconds and surgeons of both parties, and all others, aiding, abetting, or encouraging the duel, or any one or more of them; and in all such actions, the jury may give vindictive damages, for the suppression of the practice of duelling, and the killing without warrant of law.

Jury may assess joint or several damages vs. de'fis.

SEC. 2. That hereafter, in actions of trespass, it shall be lawful for the jury to assess several or joint damages against the several defendants; and when the jury find several damages, the judgment shall be in favor of the plaintiff, against each defendant, for the several damages, without regard to the amount of damages laid in the declaration, and a joint judgment for the costs.

SEC. 3. That the failure to include any of the persons named in the first section, as defendants in the action, shall discharge such person from liability under this act; and they shall be competent witnesses for the plaintiffs or defendants.

Approved February 14, 1839.

CHAP. 1215.—AN ACT to amend an act, entitled, "an act to authorize the citizens of the town of Columbus, in the county of Hickman, to elect their Trustees, and for other purposes," approved February 9th, 1837.

Time of election changed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the first section of an act, entitled, "an act to authorize the citizens of the town of Columbus, in the county of Hickman, to elect their Trustees, and for other purposes," as requires said election to be held on the first Monday in April, in every year, shall be, and the same is hereby, repealed; and that hereafter said election shall be held on the first Monday in August, in every year; and should the citizens of said town fail, at any time, to hold an election on the first Monday in August, it shall, in that event, be lawful for said election to be holden on the first Monday in September; and, whereas, doubts have arisen as to the legality of the election, held for Trustees of said town, in the year eighteen hundred and thirty eight—therefore,

Sec. 2. *Be it further enacted*, That the election aforesaid, for said town, is hereby legalized and declared valid; and all the acts and doings of said Trustees, not inconsistent with their powers and authority, are hereby legalized and declared valid, as though said election had been held at the proper time.

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Approved February 14, 1839.

CHAP. 1216.—AN ACT to amend the 14th section of an act, entitled, "an act to amend the charter of the city of Louisville," approved January 16th, 1838.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the fourteenth section of an act, entitled, "an act to amend the charter of the city of Louisville," approved January sixteenth, eighteen hundred and thirty eight, shall be so amended as that no person shall sell any spirituous, malt, fermented, or other liquors, or combinations thereof, in said city, by the retail, that is less than a quart, or of a quart, or of more than a quart, when drank in the house, or in the premises used, or connected with the house of the person selling the same, without a license from the council, under a penalty of fifty dollars for every such offence.

Approved February 14, 1839.

CHAP. 1217.—AN ACT for the benefit of the estate of Franklin C. Averil.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the widow and administratrix of Franklin C. Averil to file a bill, in the Louisville Chancery Court, against the infant heir of the said Averil, and set out the personal estate, and debts due to and from the estate, and that the personal assets are not sufficient to pay the debts, and the real estate that descended to the heir; and the court shall cause the administratrix to settle her accounts, and have the assets applied to the payment of the debts; and if that shall be insufficient, may decree a sale of so much of the real estate as will be sufficient for that purpose, and assign the widow her dower out of the residue; and if it shall appear to be more to the advantage of the heir, and the widow shall consent, may decree a sale of the residue, and an equitable division of the proceeds, and cause the infant's part to be invested and secured in such manner as to give the most aid in his education and maintenance, and make all such orders and decrees as the equity of the case may require to effect the objects of this act.

A sale of real estate authorized to pay debts.

Approved February 14, 1839.

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CHAP. 1218.—AN ACT for the benefit of William Spratt, and others.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Michael Davidson, William Spratt, and James Davidson, be, and they are hereby, released from all liability on a bond, executed by them to the Commonwealth of Kentucky, on the thirteenth day of July, eighteen hundred and nineteen, for the delivery of sixty stand of arms.

Approved February 14, 1839.

CHAP. 1219.—AN ACT to appoint Trustees for the town of Summersville.

Trustees appointed. SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Leonard Mudd, George W. Towles, Fielding Chelf, Randolph Noe, and John Mudd, be, and they are hereby, appointed Trustees of the town of Summersville, in the county of Green, who shall continue in office for the term of one year, from and after the first Monday in April next.

Elections of trustees. SEC. 2. That the free male citizens of said town, who are twenty one years of age, or over, shall, annually hereafter, elect five Trustees, for said town, which election shall be held on the first Monday in April, in each and every year, from and after the first Monday in April next; and the Trustees, so elected, and the Trustees hereby appointed, shall perform the duties, and be subject to the regulations provided in the several acts of Assembly, in relation to said town; but before entering upon their duties, shall be sworn, before some Justice of the Peace for said county, to perform, with fidelity and according to law, the duties of Trustees of said town.

Their duties and oath.

Approved February 14, 1839.

CHAP. 1220.—AN ACT to amend an act dispensing with quarterly and substituting monthly statements, and providing for monthly balance sheets, to be lodged with the Secretary of State, by the Banks of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act to which this is an amendment, shall be construed and held to authorize the President and Directors of the Bank of Kentucky, and of the Northern Bank of Kentucky, to require, from their respective branches, either the monthly or quarterly statements, at the will and pleasure of the principal Bank.

Approved February 14, 1839.

CHAP. 1221.—AN ACT to change the time of holding the Green Circuit Court.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the passage of this act, there shall be no term of the Green Circuit Court holden in the month of February, but that the said court shall be held on the third Mondays in May, August and November, and continue twelve juridical days, at each term, if the business of said Court shall require it.

SEC. 2. That all recognizances, bail bonds, and other obligations, process, notices, or subpoenas, for the appearance of any persons or parties, at the February term of said Green Circuit Court, (as now provided by law to be holden in the present year,) shall be good and effectual, in law, for the appearance of any such persons or parties to the May term of said court: provided they shall have been taken, executed, or served according to law; and all laws, in anywise inconsistent with this act, are hereby repealed.

Approved February 14, 1839.

CHAP. 1223.—AN ACT for the benefit of Anderson Dunn, Isaac Hemingway and William Ratcliffe.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts issue to Anderson Dunn, a warrant on the Treasury for fifty dollars, for the support and maintenance of Nelly Herndon, an idiot, during the year ending on the first day of July, eighteen hundred and thirty eight; and the Clarke Circuit Court is hereby authorized to make to Isaac Hemingway, out of the Public Treasury, such allowance for the support and maintenance of said Nelly Herndon, during the period intervening between the first day of July, eighteen hundred and thirty eight, and the first day of April, eighteen hundred and thirty nine, as said court may deem reasonable: provided, said allowance shall not exceed the rate of fifty dollars per annum.

Appropriation to Dunn.

To Hemingway.

SEC. 2. That the Pike Circuit Court is hereby authorized and required to make to William Ratcliffe, or other committee of David Ford, a lunatic, such allowance as said court may deem reasonable, for his support and maintenance, from the first day of January, eighteen hundred and thirty six, until the next term of said court; but said allowance shall not exceed the rate of fifty dollars per annum; and for the amount so allowed, the Auditor of Public Accounts shall draw a warrant on the Treasury; and hereafter said court may cause said Ford to be kept and supported, without being sent to the Lunatic

To Ratcliffe.

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Asylum, by such allowances to his committee, from time to time, out of the Public Treasury, as said court may deem reasonable, not exceeding the rate aforesaid, in like manner, and subject to such restrictions as are in force in regard to idiots.

Approved February 14, 1839.

CHAP. 1223.—AN ACT to incorporate the Shelbyville Fire, Marine, and Life Insurance Company.

Company in-
corporated.

Corporate
powers.

Books to be
opened.

Capital stock.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That James Bradshaw, George W. Johnston, Fielding Winlock, William Standeford, Henry Radford, David B. Allen, Charles W. Ellis, together with those who shall hereafter become stockholders, as hereinafter directed, shall be, and they are hereby, created and made a corporation and body politic, by the name and style of "The President and Directors of the Shelbyville Fire, Life, and Marine Insurance Company," and shall so continue until the first day of January, eighteen hundred and sixty four; and, by that name, are hereby made capable and able, in law, to have, to purchase, receive, possess, enjoy, and retain, to themselves, and their successors, their capital stock, and invest the same in profitable stock, to an amount not exceeding, in the whole, one hundred thousand dollars, and the same to sell and dispose of; also, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity in this Commonwealth, or elsewhere; also, to make, have, and use, a common seal, and the same to break, alter, or renew, at pleasure; also, to ordain, establish, and put in execution, such by-laws, ordinances, and regulations, as shall be deemed necessary and convenient for the government of said corporation, which may not be contrary to law; and, generally to do and execute all and singular the acts, matters, and things, that a corporation may rightfully do in the premises.

SEC. 2. That the persons named in the first section, or a majority of them, shall open books of subscription for the stock in said company, (which stock shall consist of one thousand shares of one hundred dollars each, payable in gold or silver coin;) and, at the time of subscription, they shall have a right to demand and receive five dollars on each share, and to have secured the residue to the satisfaction of the corporation, payable in six months; which obligations may be renewed, from time to time, either for the whole, or such part thereof as the President and Directors shall determine. And it shall be the duty of the President and Directors to give at least thirty days' notice of any call they may think it expedient to

make; and, in case of failure of any stockholders to meet such call, or to secure the payment of the remainder, as aforesaid, it shall be lawful for the President and Directors to sell such delinquent shares, and transfer the same to the purchaser, or declare them forfeited to the company, together with all previous payments thereon. No transfer of stock shall be deemed valid and complete, so long as the person transferring the same shall be indebted to the said company, until the amount for which he is indebted is secured to the satisfaction of the President and Directors; and the stock of every stockholder shall be held as collateral security for the payment of whatever sum he may be indebted to said company by notes for stock, or otherwise.

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Calls on stock.

SEC. 3. That the shareholders shall meet at the place of opening books for the subscription of stock in said company, on the first Monday in June, eighteen hundred and thirty nine, and at the office of the company on the first Monday in June, in each succeeding year, and elect a President and six Directors, who shall continue in office until the first Monday in June of the ensuing year, and until their successors shall be elected; of which election, previous notice shall be given in the newspapers printed in Frankfort, at least two weeks: and in case of the death, resignation, or removal from Shelbyville, of the President, the Directors may elect some person to fill such vacancy, for the residue of the year; and no person shall be chosen a Director who does not own five shares of the stock.

Election of President and Directors.

Vacancies filled.

SEC. 4. That, in all elections by the shareholders, each share, to the number of ten, shall be entitled to one vote; and every five shares thereafter, owned by the same person, shall entitle him to one additional vote; but no person that is not a resident of the state of Kentucky shall have a vote; and no shareholder shall have a vote at any election for President and Directors, unless he shall have been the owner of the stock three months prior to such election, by a regular transfer upon the books of the company; and shares may be voted on by the executor or administrator of the deceased owner, or by proxy.

Stock—how voted.

SEC. 5. That the President and Directors, for the time being, shall have power to appoint such officers and agents under them, and at such places as shall be necessary for executing the business of said company, and to allow such compensation as may be agreed upon; and to require and take bond and security for the faithful discharge of their respective duties and trusts; and the said President and Directors shall have power to make by-laws and ordinances to govern the corporation, and may repeal, alter, and amend them; and the said President and three Directors shall constitute a quorum for the transaction of business, or four Directors, without the President—one of whom shall be chosen President for the time being.

Officers, &c.

By-laws.

A quorum.

SEC. 6. That the President and Directors, for the time being, shall have power and authority, in the name of the company, to make insurance, at such rate of premium or interest as may

Make insurance, &c.

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be agreed upon by the parties, upon buildings, furniture, machinery, goods, wares, and merchandize, of every description, against fire, in town or country; and, also, to make all kinds of insurance, on every description of property, transported by land or water, within the United States; and, likewise, to make insurance on lives, by sea, or water, or on shore; and to contract for, grant, and sell, annuities; and to make all kinds of contracts in which the casualties of life or property are involved: and every such contract, bargain, agreement, or policy, to be made by the said corporation, shall be in writing or print, and shall be signed by the President, and attested and signed by the Secretary or Clerk, who may be appointed by the President and Directors for that purpose.

Dividends.

SEC. 7. It shall be the duty of the President and Directors, on the first Mondays of December and June, in each and every year, to make a dividend of so much of the profits of the said corporation, as to them, or a majority of them, shall appear advisable; and in case of any loss or losses, whereby the capital stock of the corporation shall be impaired or lessened, no subsequent dividends shall be made, until a sum equal to such diminution, and arising from the profits of said corporation, shall have been added to the capital.

Not to issue
bills, or engage
in banking.

Not to com-
mence business
until \$40,000
are subscribed.

Capital stock
may be loaned
out.

SEC. 8. The said corporation shall not issue notes or bills of credit, nor in any manner engage in the business of banking, otherwise than in receiving money on deposit, and re-lending the same, according to the provisions herein provided; nor shall said corporation commence business, or grant any policies of insurance, until forty thousand dollars are subscribed and paid for, or secured to be paid as provided for in the second section. So much of the capital stock of said company as may not be permanently invested may, at the discretion of the President and Directors, be loaned on promissory notes, at a discount not exceeding that authorized to be made by the banks incorporated by this Commonwealth, and at no greater rate of discount, without a forfeiture of the whole debt.

The amount
of losses on in-
surance to be
paid.

SEC. 9. That whenever said corporation shall be notified of any loss sustained or incurred on any policy of insurance granted or issued by the same, it shall be the duty of said corporation to pay the amount so lost or incurred, on such policy, within sixty days after being so notified, provided there shall have been no violation of the condition of the policy on the part of the insured.

May hold a
house for an
office, &c.

SEC. 10. That said corporation shall have power to purchase and hold a house and lot for an office, and to take and sell all such goods as they have insured, and which may be abandoned to the company; and such goods and chattels as may be useful and convenient for their business.

Approved February 16, 1839.

CHAP. 1224.—AN ACT to incorporate the Blue Lick Hotel and Water Company.

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WHEREAS, experience has shown that the mineral waters, at the Lower Blue Lick, are valuable conservatives and restorative of health: and whereas, it is represented to the Legislature of this Commonwealth, that, for the want of proper and sufficiently extensive and suitable accommodation, large numbers of invalid citizens of Kentucky, as well as citizens of other States, seeking an asylum and health during the sickly season, are prevented from enjoying their benefits, and are, consequently, forced to seek other quarters, in other States, to their disadvantage, and the manifest prejudice of Kentucky interests, capital, trade, and social connexions—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company shall be formed by the name and style of the Blue Lick Hotel and Water Company.

Comp'y shall be formed.

SEC. 2. That the object of said company shall be the erecting such buildings, making such improvements, and procuring such accommodation, as may be necessary for the promotion and preservation of the health, comfort, and amusement of travellers and visitors to said waters.

The object.

SEC. 3. That the capital stock of said company shall be fifty thousand dollars, to be divided in one hundred shares of five hundred dollars each.

Capital stock.

SEC. 4. That the subscribers for the stock of said company shall be a body corporate, with perpetual succession, to have all the privileges and franchises incident to a corporation for a special purpose, and shall be capable of holding their capital stock, and the increase and profits thereof, and enlarging the same, from time to time, in such manner and form as they shall think proper, (if such enlargement shall be necessary to carry out and fulfill the object and intent of this act;) and of purchasing and holding, to them, and their successors, and assigns, forever; and of selling and conveying, in fee simple; and to rent or lease the same, such lands, tenements, hereditaments, and estate, not exceeding five hundred acres, as may be necessary to them in the legitimate prosecution of their business; and of purchasing and holding of such goods, chattels, and effects, as may be necessary and convenient for the improvement of the grounds; the erection and furnishing a hotel, and such other necessary and appendant buildings, as such an establishment may require; and the same to sell, grant, lease, or otherwise dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of record, or any other place; and, also, to make, have, and use a common seal, and the same to break, amend, or alter, at pleasure; and, also, to ordain, establish,

Corporate powers.

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and put in execution, such by-laws, ordinances, and regulations, as shall seem necessary and convenient for the government of said corporation, not being contrary to law and this act; and, generally, to do and execute all and singular such acts, matters, and things, as a corporation for particular purposes may rightfully do.

President & managers to be chosen annually.

SEC. 5. For conducting the affairs of said corporation, there shall be a President and four Managers, chosen annually, by the stockholders, at a general meeting, to be held at the Lower Blue Lick, on the first Monday in March, of each year, at some place to be designated by the stockholders at their general meeting: provided, that the first election of President and Managers, shall not be included in the said regulation; but shall be held in a manner hereafter pointed out in this act: and provided, also, that in case it shall happen that an election of President and Managers shall not be made, when, pursuant to this act, it might have been done, the said corporation shall not be dissolved; but it shall be lawful, on any other day, to hold and make an election of President and Managers, at such time and place as the President and Managers before last chosen, shall direct, not inconsistent with this act; and the President and Managers before last chosen, shall continue in office until such new election shall be made; and in case of the death, resignation or absence of the President, or any manager, his place shall be filled by some person elected by a majority of the remaining members of the board.

Vacancies.

Stock—how voted.

SEC. 6. In all elections by the stockholders, each share shall entitle the owner to one vote. No person who is not a stockholder, shall be eligible to the office of President or Manager; and every President or Manager shall vacate his office, by ceasing to be a stockholder; and in all elections, the stockholders may vote in person, or by attorney, duly authorized.

Board of managers.

Their powers and duties.

SEC. 7. The President and Managers thus chosen, shall constitute a Board of Managers; any three of whom shall form a quorum for the transaction of business, and shall have power to appoint agents, officers and servants, under them, for executing the business of the corporation, and shall allow them such compensation as shall be reasonable and agreed upon; but no compensation shall be given to the President and Managers, unless it shall be allowed by the stockholders, at a general meeting; and the President and Managers shall have power, for the time being, to make, revise, alter, or annul, such rules, orders, by-laws and regulations, for the government of said corporation, its agents, officers and servants, as they, or a majority of them, from time to time, shall deem expedient.

Property allowed to hold.

SEC. 8. The said corporation shall not be allowed to hold any real estate, which shall not lie within two miles of the Lower Blue Lick, other than such as may be, in good faith, mortgaged or conveyed in trust, by way of security.

SEC. 9. The stock in said company shall be assignable only on the books of the company; and shall, to all intents and pur-

poses, be considered real estate; but no stockholder shall be relieved from the payment of his stock, by assigning it to another; nor shall any stockholder be entitled to a dividend or vote on his stock, whilst he is any thing in arrears, due and unpaid thereon.

SEC. 10. The President and Managers shall report to the stockholders, at their general meeting, on the first Monday in March of each year after the first, the situation of the company; the amount of money received; from what sources received; an account of their expenditures, and for what purpose expended; whereupon the stockholders shall make such dividend, arising from the rents and profits of the corporation, as they may think proper; which report of the President and Managers, together with the proceedings of the stockholders, shall be put upon record, upon the journal of the proceedings of the President and Managers of said corporation.

SEC. 11. That a book for subscriptions in the capital stock of said company, shall be opened at the Lower Blue Lick, on the first Monday in March next, under the direction of John Throckmorton, Daniel P. Bedinger, David Ballingal, Thomas Y. Brent, Joseph M. Bedinger, Larkin Sandige, Francis T. Hord, and Dr. William T. Taliaferro, or such of them as may assemble, and agree to act; which commissioners shall procure a book, in which each subscriber shall enter his subscription for stock, as follows, viz: I do hereby agree to take — share or shares, as the case may be, in the stock of the Blue Lick Hotel and Water Company, and bind myself to pay to the Treasurer of said company, the sum of five hundred dollars, for my said share, (or each of my said shares, as the case may be,) in such manner and proportion, as the President and Managers of said company shall direct. Witness my hand, this — day of —, in the year of our Lord, eighteen —.

Which said book shall be kept open for the term of six weeks, under the direction of such person as the commissioners shall appoint to receive subscription, unless the amount of one hundred shares, or fifty thousand dollars, shall be well and truly, and in good faith subscribed for, before the expiration of that time; but shall be closed at any time, when it is ascertained that the amount of fifty thousand dollars, or one hundred shares are subscribed for; but upon the subscription of forty shares or twenty thousand dollars being subscribed for, it shall be the duty of the acting commissioners to give three weeks notice to the subscribers, through the newspapers printed in Maysville and Paris, of the fact, and appoint a day for the election of a President and four Managers, from among the stockholders; but should the sum of twenty thousand dollars not be subscribed for in six weeks, the commissioners may continue said book open for a longer period, and also open books, at such other points as they may think proper, until the amount of twenty thousand dollars shall be subscribed, and the company formed by electing their President and Managers,

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Annual report of managers.

Dividends.

Books of subscription for stock.

Comrs to open books.

1st election.

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Organization
of board.

Secretary.

Calls on
stock.

Books may
be opened to
increase stock.

Service of
process on com-
pany.

which said election shall take place under the supervision of the commissioners, or a majority of such as choose to act, in whose presence the stockholders, who have subscribed, may meet, upon a day duly appointed, and advertise, as aforesaid, and choose a President and four Managers, to serve until their successors are duly elected, under the provisions of this act; and the person having the highest number of votes for President, shall be duly elected; and the four persons having the highest number of votes for managers, shall be duly elected; and the President and Managers, so elected, shall meet, at some convenient day thereafter, to be appointed by them, and organize their board, by the appointment of a Secretary, who shall keep a record of all the proceedings of the board, and by the appointment of a Treasurer, from whom they shall take a bond, with sufficient security, for the faithful discharge of his duties, both of whom shall be removable at the pleasure of the board.

SEC. 12. It shall be lawful for the President and Managers to make calls, from time to time, on the stock subscribed for, but no installment shall be called for, amounting to more than ten per cent. on the stock subscribed, which installments may be required to be paid at the end of every sixty days, until the whole amount of stock subscribed for is paid in; and should any stockholder fail to pay any installment for the space of one month, after it shall have been called for and become due, he shall, in addition to said installment, be bound to pay, at the rate of one per cent. per month, for the amount due and unpaid, from the time said installment fell due until paid; and if any stockholder shall fail to pay such installment or installments, for the space of six months, after the same shall have been called for, and fallen due, it shall be lawful for the President and Managers to forfeit, for the use of the company, such sum or sums as may have been paid on such share: provided, however, that no call shall be made without giving at least thirty days notice, in some authorized newspaper, published in Maysville and Paris: and, provided, moreover, that the President and Managers shall have it at their option to forfeit the amount paid on said stock to the company, or pursue and collect their subscription by due course of law.

SEC. 13. It shall be lawful for the President and Managers to open books, at such times and places as they may think proper, for the residue of their stock, not subscribed for; and when necessary to increase their stock not subscribed for, and when necessary to increase their stock, not however to increase their stock to exceed in all two hundred shares, subject to such rules and regulations as they may prescribe.

SEC. 14. In all suits instituted against this corporation, service of the process on the President and Secretary, shall entitle the plaintiff to judgment, by default, at the first term, if they shall fail to appear and answer to such suit; and it shall, not, in all cases, be necessary to show a contract, under seal of

the corporation, to maintain suit against them; but on the contrary, said corporation shall be bound by any written contract, signed by the President; and attested by the Secretary, or by any written contract, or parol contract, expressed or implied, which may be made with any of their authorized agents, in the name of said corporation: provided, such contract shall be within the fair meaning of the power or authority granted or conferred on such agent.

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Contracts binding.

SEC. 15. All moneys due to the company shall be paid to the Treasurer, and be paid out by him, only to the order of the President, the Board of Managers, or the stockholders in general assembled.

Treasurer.

Approved February 16, 1839.

CHAP. 1225.—AN ACT to reduce into one the several acts in relation to the town of Frankfort, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Frankfort, as described, bounded and demarked in the plat thereof, executed in the year eighteen hundred and thirty nine, by M. R. Stealey, and recorded in the Clerk's office of the Court of Appeals, shall be, and is hereby, declared to be the town of Frankfort; and the said plat is hereby declared to be the true plat and plan thereof, and that the original, or an attested copy of the said plat may be used in evidence in the same manner that attested copies of other papers, duly recorded in said office, are authorized to be used.

Plat of 1839, as recorded in the Court of Appeals to be the true plat of the town, & attested copies thereof to be used in evidence.

SEC. 2. That the fiscal, prudential, and municipal concerns of said town, with the government and control thereof, shall be vested in seven Trustees, four of whom shall form a quorum to transact business, and all of whom shall have resided in said town one year next preceding their election, and be freeholders therein.

Number and qualification of Trustees.

SEC. 3. That said Trustees, and their successors, shall be a body politic and corporate, and shall be known by the name and style of the "Board of Trustees of the town of Frankfort," and by that name shall be capable in law of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, and of defending and being defended, in all courts and places; and may use a common or private seal, and do all other acts, matters, and things, which a body politic and corporate, having perpetual succession, can lawfully and rightfully do and perform.

Style of incorporation—may use a common seal—power to contract, to sue and be sued.

SEC. 4. That the said Trustees shall be elected during the present year, on the first Saturday in March, and after this year, annually, on the first Saturday in January, by the free white male inhabitants of said town, over the age of twenty

When Trustees to be elected, and qualification of voters.

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Tenure of office—trustees to be sworn—may fill vacancies, and appoint a Chairman.

Election of Trustees—how conducted.

Trustees may divide the town into wards.—Mode of voting when the town is, & also when it is not, so divided.

When and how a trustee's seat may be vacated.

Meetings of the Board regulated & absent members to be fined.

one years, who shall have been *bona fide* residents in said town for one year next preceding the election, and who shall have paid their poll tax for the preceding year, and all arrearages and taxes by them due said town, which payment, upon being questioned, must be satisfactorily shown. The said Trustees shall hold their office for one year, and until their successors shall be elected and qualified, they shall take an oath, before some Justice of the Peace, that they will faithfully, and without favor or affection to any one, discharge the duties that may devolve upon them as Trustees, during their continuance in office, and shall have power to fill any vacancy that may occur in their own body; it shall be their duty to appoint one of their own body Chairman, who shall preside at all their meetings; and in case of the absence of the Chairman, they shall appoint a Chairman *pro tempore*, and in case of his death, removal from the town, or vacation of his seat, as Trustee, may appoint another in his stead. The election for Trustees shall be conducted by one or more of the acting Trustees, or those other citizens; to be appointed by the Board for that purpose, and shall be held at such place, or places, as may be designated by the Board, and the return of the names of the persons elected shall be made to the Clerk of the Board, and shall be by him recorded in their books. At least ten days notice of the time and place, or places, of holding the election shall be given by advertisement in some newspaper published in said town. The Trustees shall have the power, sixty days previous to the annual election in each and every year, to lay off the town into two or more wards, to be as nearly equal in population and improvement as practicable, out of which may be elected an equal proportion of Trustees. The elections in the different wards shall be held at the same time, and close at the same hour, and each qualified voter shall vote in his own ward, and for the number of Trustees to which said ward may be entitled. During every year in which the Trustees may think it advisable not to divide the town into wards, and shall fail to do so until within sixty days of the election, the election shall, in such year, be held at but one place, at which all the qualified voters shall vote for the full number of Trustees. Should any Trustee be absent from the meetings of the Board for three months, the Board may, by the unanimous vote of all the remaining Trustees, by a resolution to that effect, entered on their records, declare his seat vacated, and may then fill the vacancy caused by his removal, as in other cases.

SEC. 5. That the Trustees may, from time to time, fix and regulate, by their by-laws, the times and places of the regular meetings of the Board, and also prescribe the mode in which special meetings may be had, and may inflict a penalty not exceeding two dollars on any member for non-attendance at any one meeting, to be applied for stationary, lights, and fuel, for said Board.

SEC. 6. That the said Board of Trustees, and their successors, shall have power and authority to take, receive, and hold real, mixed and personal estate, by purchase, devise, bequest, or donation, for the use, benefit, or ornament of said town, and may use, appropriate, lease, or sell, the real, or personal, or mixed estate which may be so taken and received by them, or which is now held by, or has been conveyed to the present Board of Trustees of the town of Frankfort, in such manner, and upon such terms as they may deem expedient: provided, however, that no sale or lease shall be made of any real estate, unless the same is sanctioned at the same meeting by the vote of six Trustees; and which vote shall appear recorded in full, upon their records, giving the individual names of those who voted for, and those who voted against, it.

SEC. 7. That the legal title to all the streets and alleys in said town, and to all the real, personal or mixed estate, which now does, or may hereafter, belong to said town, shall be, and is hereby, vested in said Board of Trustees, and their successors in office; and they shall have full power and authority to maintain and carry into judgment and execution any action, or actions, of trespass for any injury done to the same, and may, in like manner, maintain and carry into judgment and execution any other appropriate action, or actions, for the recovery of their property, or damages for the detention, taking, injury or destruction of the same; and that the same process may issue, and execution be awarded, as are applicable by law to suits by private individuals: provided, however, that in all cases thus instituted, in which the Trustees do not sue for a specific penalty, the jury shall not be limited in their verdict by the amount of any specific penalty annexed to the offence for which the suit was brought, but shall be governed by the same discretion which regulates their verdicts in suits between private individuals; and, provided also, that in all such cases when the damages are laid at a sum not exceeding fifty dollars, the Police Judge, or any Justice of the Peace, shall have concurrent jurisdiction, subject to an appeal as in other cases.

SEC. 8. That the Board of Trustees shall have power and authority to clear the streets, alleys, side-walks and passways in said town of all obstructions, to erect and sink cisterns, wells and pumps, and keep open all springs in said town, and declare them free by verdict of a jury to be impanneled before the Police Judge for that purpose. They shall also have the power and authority to preserve and protect, free from incumbrance, all the public grounds and improvements in said town. They shall have full power and authority to remove, and cause to be removed and abated, any nuisance, or nuisances, in said town, and to regulate the stowage or removal of any combustible or unwholesome material that may injure the health, or tend to diminish the comfort of the citizens, or the security of their property; they shall, also, have the pow-

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Trustees may take and hold real, personal, and mixed estate, and in what manner they may sell or lease real estate.

Legal title to the streets, and to all property belonging to the town vested in the trustees, & power given them to sue for injury &c. to the same.

Jury not to be limited in damages unless a specific penalty is sued for, and jurisdiction in cases under §50 regulated.

Power given trustees to keep streets, &c. in good condition—to sink wells and cisterns—protect the public grounds—abate nuisances—regulate the storage or removal of unwholesome or dangerous materials—cause chimneys, flues, fire places, stove pipes, &c. to

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be made safe—
compel owners
and occupiers
of property to
keep the streets
in front of them
clean. The
mode of enforcing
such orders.

er and authority, to cause any chimneys, flues, stove pipes, or fire places, that, in their judgment, may threaten the security of property to be changed and repaired, so as to remove the cause or danger of insecurity; they shall also have power and authority to cause the owners and occupiers of property fronting on streets or alleys, to keep the streets or alleys in front of them clear and free from dirt or filth, and in all cases enumerated in this section, when the persons who should do so fail or refuse to obey and perform the directions given in relation thereto, by the Board of Trustees, the said Trustees may have their orders executed at their own expense, and the costs and charges, thus incurred, shall be paid by those who should have complied with the directions of the Board in relation thereto, and may be recovered by the Board of Trustees by a warrant for the same, before the Police Judge, or any Justice of the Peace, or by a suit in the Franklin Circuit Court.

Trustees may
ornament town
& grounds with
trees, fencing,
&c. and penal-
ty for injuring
the same.

Sec. 9. That the said Trustees may cause the said town, and the grounds belonging to the town, to be ornamented in such manner as they may deem expedient, with fencing, trees, and shrubs, and the necessary protection of said trees and shrubs, and that if any person, or persons, shall wilfully injure said trees and fencing and shrubs, or any one or part thereof, or the boxing or protection of the same, each person so offending shall, for every such offence, be subject to a fine of not less than ten, nor more than fifty dollars, to be recovered by the said Trustees, in their name, and for their benefit, by warrant before the Police Judge or any Justice of the Peace.

Trustees may
cause streets,
alleys and side-
walks to be
paved, McAd-
amized and re-
paired by the
owners of the
lots binding
thereon, and
mode of pro-
ceeding when
their orders in
that behalf are
not complied
with.

Sec. 10. That the Board of Trustees of the town of Frankfort may, from time to time, direct and require the owners of lots, or parts of lots, in said town, when the same fronts on a street or alley, to cause the same to be paved with side-walks in front of their respective lots, or fraction of lots, of such width, and such materials, and in such manner, and at such elevation as the said Board may deem expedient; and also to repair the same in such mode and manner as they may direct, and also to grade and pave, or McAdamize, one half of the street or alley in front of the whole line, or lines, of their said lots, or fraction of lots, in such mode and manner as the said Trustees may direct. If the owner, or owners, of said lot, or lots, or fraction of lot, or lots, shall fail or refuse to have the same repaired, paved, graded, McAdamized, or finished with side-walks, within the time, and in the manner, prescribed by said Trustees, it shall be lawful for the said Trustees to have the same done at their own costs and charges, and the costs and charges thus expended and incurred by said Trustees, shall be taken and be a tax upon said lots, and fractions of lots, and the owners thereof, respectively, in proportion to the amount which the costs of the whole improvement made under said order bears to the length in front of said lots, or fractions of lots, respectively. Notice of such order or direc-

tion for repairing, grading, McAdamizing, or finishing with side walks, shall be given by publication in the newspaper of the public printer, for the time being, for two months by successive weekly publications, and a copy of said order or direction, accompanied by the affidavit of the public printer that the same has been published agreeably to the provisions of this act, may be recorded in the Clerk's office of the Court of Appeals, and shall be *prima facie* evidence that said direction was given and publication made as prescribed by this act, and an attested copy of the same may be used on the trial of any cause, and shall have the same force and effect as other attested copies now authorized by law.

SEC. 11. That the said Trustees shall have the control and care of the market house; and shall annually appoint a market master, and who shall give bond and security to be approved by the board faithfully to perform the duties assigned him by the board. He shall rent the stalls and license persons to sell meats and all other articles, under the direction of the board, and the bonds, notes and accounts, taken by him therefor, shall be made payable to the board, and be collected by the Marshal before, and by judgment of, the Police Judge, or any Justice of the Peace. The said Trustees shall have full power and authority to pass all by-laws, and rules, and regulations for the government of the market, not contrary to the constitution and law of the land, and may inflict fines and penalties to enforce the same, in any sum not exceeding ten dollars for each offence, recoverable before the Police Judge or any Justice of the Peace.

SEC. 12. That if the owner, or hirer, or any person, who has the legal control and custody of any slave, shall suffer or permit said slave to hire his or her own time, or go at large and act for himself or herself, in said town, the Police Judge or any Justice of the Peace, in said town, shall, at the instance of said Trustees, issue his warrant against the owner or hirer, or person who has the legal control of said slave to show cause why judgment shall not be rendered against him or her for such offence, which warrant may be executed by the Marshal or his deputy, or by any Constable; and upon the return of the same, a jury shall be impaneled before said Justice or Police Judge, and if the jury shall ascertain that the defendant to said warrant suffered and permitted said slave to hire his or her own time, or go at large and act for himself or herself, in said town, the said Justice of the Peace or Police Judge shall thereupon enter judgment that said slave be hired out to the highest bidder for his time or her time, for the sum of twenty five dollars, to be paid to said Trustees: provided, however, that said contract of hire shall terminate whenever the said owner, hirer or person who has the legal control, shall refund to the person who hires the said slave of the Marshal or his deputy, the full amount of the said sum of twenty five dollars: provided, also, that the hiring under

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Notice of such orders, how given and proved.

Trustees to appoint a market master and pass by-laws for the regulation of the market. Duties of the market master.

Duty and power of trustees in regard to slaves hiring their own time in said town, & the mode of enforcing and collecting penalties against the owner, &c. of such slaves.

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such judgment shall be made by the Marshal or his deputy, and that no slave thus hired shall be taken out of the county of Franklin by the hirer or any person claiming under him: and, provided, also, that the Marshal shall, before he delivers said slave to the hirer, take from the hirer bond, with good security, conditioned that neither he nor his assignees will remove said slave out of the county of Franklin, which bond shall be made payable to the Board of Trustees of the town of Frankfort, and may be sued upon, in their name, by any person injured by the breach thereof, at the costs and charges of said person: provided, also, that when the owner of any slave thus going at large, or hiring his or her own time, is unknown or resident out of this Commonwealth, the Police Judge may, on the application of said Trustees, order said slave to be hired out by the Marshal, from month to month, for the benefit of said town until the owner can be ascertained.

Trustees may purchase and improve a burying ground.

May erect a free school and purchase buildings therefor.

May establish fire companies, purchase engines, regulate the number of fire buckets, establish a watch house & work house, appoint watchmen and other officers to apprehend disorderly persons.

When disturbers of the peace, mendicants, &c. may be sent to the work house.

Sec. 13. that the said Trustees shall be authorized to purchase and hold any quantity of ground of not more than twenty five acres, to be within two miles of the limits of Frankfort, for a burying ground, and may make all needful and necessary regulations for the use and protection of the same. They shall have full power to purchase and erect the necessary ground and buildings for a free school or schools, in said town, and make all necessary regulations in relation to said school, and the government and carrying on of the same. They may, also, establish fire companies in said town, and confirm and appoint the officers selected by said companies, and procure the necessary engines and implements to be used in case of fire, and require all the inhabitants of said town to keep such a number of fire buckets as they may think necessary, and make such regulations as they may think necessary in relation to said companies. They shall have power and authority to establish a watch house and a work house, and appoint watchmen, and other officers to superintend such houses, and to apprehend all offenders and disorderly persons, and take them before the proper tribunal, to be dealt with according to law; all persons who may be confined, by order or judgment of the Police Judge or Justice of the Peace of said town, for breaches of the peace, riots, routs, affrays, unlawful assemblies, or any other offences against the ordinances or by-laws of said town, or the general laws in relation to the same, and all common mendicants and vagrants may, by the order of said Justice or Police Judge, if he think proper to make such order, be confined in said work house at hard labor, and shall be discharged when the terms of their confinement have been complied with, or the time thereof has expired.

Sec. 14. That the Board of Trustees of the town of Frankfort shall have the power to appoint, annually, a Clerk, Assessor, Treasurer, Marshal, Market Master, Surveyor, and such other officers, for said town, as may be necessary to carry into

Clerk, assessor, treasurer, marshal, market master, sur-

effect the laws, by-laws, rules and regulations made for the general welfare of said town and the citizens thereof, and may prescribe the respective duties, and affix and pay the respective salaries of said officers. They shall require bond, with sufficient security, in adequate penalties, by all officers appointed by them to fill responsible offices, and a lien shall be taken by them on the lands and slaves of all such officers and their securities for the faithful discharge of the duties, and the prompt payment of all sums of money that shall come to their hands; and they, and their securities, shall be liable to a judgment in the Franklin Circuit Court in favor of the Board of Trustees of the town of Frankfort, or any person entitled to money collected by them, in like manner, and subject to the same penalties that Sheriff or Sheriffs and their securities are. They shall have full power and authority, at any time, to remove any of said officers or their deputies, and appoint others in their stead; and when any vacancy occurs by the death, removal, or resignation, of the chairman of the board, or of any of the officers or their deputies, they shall, in like manner, have full power and authority to appoint others in their stead.

SEC. 15. That all bonds, executed by the persons appointed as officers by the Trustees, shall be made payable to the Board of Trustees of the town of Frankfort, and that said bonds may contain any stipulations and covenants that the said Trustees may think proper to require or receive, and that said bonds, when executed, shall operate as a mortgage and lien upon all the real and personal estate of the officers and their securities, respectively, until all the conditions of said bond are respectively complied with, and that, for a breach or violation of the condition or conditions of any such bonds, the said Trustees may sue and recover, and have the appropriate judgment and execution, by action of covenant or debt, in the Franklin Circuit Court against the parties to said bonds respectively, and may, also, proceed in chancery, in said court, when chancery proceedings may be necessary against said officers and their securities.

SEC. 16. That the Trustees shall appoint, annually, from among the citizens of said town an Assessor, who shall, before he enters upon the duties of his office, take an oath duly and impartially to discharge the duties thereof. It shall be the duty of the Assessor to call upon all the taxable persons in said town and make out a true list of their taxable property, with the value thereof, which list shall be made upon the oath of the party, to be administered by the Assessor. The Assessor's list shall be taken so as to include all the real estate in said town, and all the free white males over twenty one years of age, all slaves, with their value, with all other species of personal property, exclusive of household furniture, and money, and *choses in action*. If any person or persons shall refuse to give in a list of his or her property, or be absent, the Assessor shall make out a list from the best

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voyor and other officers to be appointed.

Bond to be executed by them, a lien taken on their property & recoveries how had against them.

Trustees may remove any of said officers, & appoint others in their stead.

How the bonds of officers shall be executed—such bond shall operate as a lien on the property of the officers & their securities. How suits at law or in chancery may be had on such bonds.

Assessor to be appointed, his duties prescribed, & the mode of performing the same.

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When the assessor to return his list, & the duty of the trustees on the return of the, to correct improper valuations.

information he can procure; and when there is any real estate, in said town, the owner or owners whereof may be unknown, it shall be the duty of the Assessor to report that fact, specially, on his list, together with the value of the property. He shall, on or before the twentieth day of April of the present year, and on or before the first day of March, in every year hereafter, annually, complete and return the list so taken to the Board of Trustees; upon the return of the list, by the Assessor, the Trustees shall give notice that any person or persons, who may feel themselves aggrieved by the valuation of the Assessor, may appear before them at a stated meeting, to be held for such purpose, on or before the fifteenth day of May of the present year, and on or before the first day of April in each succeeding year, with their evidence, to show the true valuation of such property; and the Trustees, on such proof being made to them, may change such valuation.

When taxes to be laid and levied.

SEC. 17. That the said Board of Trustees may, annually, lay and levy the taxes for the current year, and direct the time within which the same shall be paid, at the first meeting of the board after the Assessor returns his list, or if, any thing should prevent the levy and tax from being then made and levied, the same may be done at the next meeting of the board.

Assessor's list to be recorded by the clerk, & the effect of such record.

SEC. 18. That after the first day of June, of the present year, and after the first day of May, in each succeeding year, the Clerk of the Board of Trustees shall record, in a book to be by him kept for that purpose, the Assessor's list, with any corrections that may have been made therein by the Board of Trustees; and the said lists, thus recorded, or attested copies thereof by said Clerk, shall be received in evidence in any court of justice, and shall be, *prima facie*, that the Assessor complied with all the duties prescribed to him, by law; and shall, also, be *prima facie* evidence that all the laws in relation to the fixing and adjustment of the taxes have been regularly complied with by the Board of Trustees and its officers.

Treasurer to be appointed & to execute bond—his duties prescribed and his compensation—when & how he may receive and pay out moneys, & in what cases he may receive and receipt for taxes.

SEC. 19. That the Treasurer appointed by the Board of Trustees shall take an oath faithfully and honestly to discharge the duties of his office, and shall execute bond, with good security, and in such penalty as the Trustees may require; which penalty shall not, at any time, be less than ten thousand dollars, and which bond shall be conditioned to pay over, all moneys, which may come to his hands as Treasurer, to the Trustees or their order; and to perform all the duties imposed on him by law as Treasurer; and may contain such other stipulations as the said board may think proper to require. The Treasurer shall receive and give a receipt for all moneys paid or received; he shall receive and receipt for all paid to the Board of Trustees; he shall keep a fair record of all the fiscal concerns of the board, and record, in order, the appropriations of said board as certified to him by the Clerk, and pay the same according to their order; he shall pay no money without receiving a copy of a resolution of the Board of Trustees, signed

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by the Clerk, making such appropriation, and he shall file all received by him for settlement by resolution of the board. His books shall at all times be open to the inspection of persons having claims upon the board, upon reasonable notice. The Treasurer shall be, and is hereby, authorized to receive and receipt for all taxes that may be paid to him on or before the first day of August of the present year, and on or before the first day of July in each year hereafter, annually, by those persons who may owe the same; he shall, on or before the tenth day of August of the present year, and on or before the tenth day of July in each succeeding year, annually, report to the Clerk of the board a true list of all the taxes and money received by him, with a list of those taxes and dues which remain unpaid at that time. He shall be allowed such compensation for his services as the Board of Trustees may direct, not exceeding two and one half per cent. on all moneys received and paid out by him under the order of the board. He shall, also, whenever required by an order of the board to that effect, attend and report to the board the condition of the treasury, and shall at all times be ready for a settlement.

SEC. 20. That the Clerk appointed by the said Trustees shall take an oath faithfully and impartially to discharge the duties of his office, and shall execute bond with such conditions and with such security as shall be required by the board. It shall be his duty to preserve the books, papers, records, and every thing belonging to his office, and deliver the same to his successor in office. He shall keep a regular journal of the proceedings of the board, with a regular account of the fiscal concerns thereof. He shall file and preserve the poll books annually, and shall record all the acts, resolutions and orders of the board. He shall take all bonds, agreements and records, and preserve all contracts and agreements made between the Board of Trustees and other persons. He shall copy and sign all resolutions, orders, claims and allowances, when required to do so by persons having claims against the board; he shall file and preserve, annually, the Assessor's book. He shall make out a fair list of the persons and property liable to taxes, with the amount due by such persons or property, in alphabetical order, and place the same in the hands of the Treasurer on or before the twentieth day of June of the present year, and on or before the first day of April in each succeeding year, annually; and he shall file and preserve the report of the Treasurer of those taxes which have not been paid; and he shall make out and place in the hands of the Marshal a list of the persons and property, by whom, or on which, taxes and dues to the town remain unpaid, and the amount of the same respectively.

Clerk to be appointed and his duties prescribed.

SEC. 21. That the Marshal appointed by the said Trustees shall be appointed annually, and shall take an oath faithfully to discharge his duties, and shall give bond with approved security in a sum not less than three thousand dollars, condi-

Marshal to be appointed & his powers and duties prescribed.

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May have a deputy or deputies.

Fees of the Marshal.

May take replevin bonds.

Manner and mode for the adv't, sale & conveyance of lots for taxes, prescribed, and the steps to be taken by the trustees & officers in relation thereto, pointed out.

tioned faithfully to discharge the duties of his office, and which bond may also contain any other conditions that the board may think proper to require. He shall have all the power and authority within the county of Franklin to collect the taxes, dues and demands of said town, in the same manner that Sheriffs have to collect the county levy and State revenue; and shall have full power in said county to serve notices, and, also, to execute all warrants and process from the Police Judge, and levy and perfect executions upon all orders and judgments of the Police Judge. He shall serve and execute all orders and notices issued or made by the board, and make due return on the same. He may have a deputy or deputies, by and with the advice and consent of the board, and shall, together with his securities, be as fully responsible to the neglect, misconduct, malfeasance, or other default of his deputy or deputies as though he himself had been guilty of said neglect, misconduct, malfeasance or other default, in his proper person. He shall be entitled to the same fees and per cent. for collecting the town tax, penalties and forfeitures, as Sheriffs and Constables are in like cases where it is not otherwise provided for by this act, or the order of the board. He shall be entitled to a fee of one dollar for serving a peace warrant, or warrant for a rout, riot, affray, or breach of the peace, and for all warrants where fines are to be assessed by a jury before the Police Judge, and to a fee of twenty five cents for all other warrants for penalties, forfeitures and debts, to be tried by the Police Judge without a jury. He shall be entitled to a fee of twelve and a half cents for summoning a witness, and to the same fees from the State, to be paid out of the treasury and county levy, for serving felony warrants and warrants against slaves for misdemeanors as Constables are for like services. The Marshal and his deputy or deputies are authorized to take replevin bonds on all executions in which a replevy is allowed by law, and make the same payable in three months to the plaintiff in the execution.

SEC. 22. That if, on the first day of September, of the present year, or on the first day of August, of any succeeding year, there may be due, and unpaid, any tax or taxes, upon any lot, or fraction of a lot, in said town, which tax, or taxes, may be imposed by virtue of this act, it shall be the duty of the Board of Trustees of the town of Frankfort to cause to be published in the newspaper of the Public Printer, for the time being, a list of all the lots, and fractions of lots, on which the tax, or taxes, may be unpaid, and also the amount due and unpaid upon each lot, and fraction of lot, respectively, for two months, by successive weekly publications; and they shall also state, in a note appended to said list, the day, or days, on which said lots, or fractions of lots, or so much of each lot, or fraction of a lot, will be sold as may be necessary to discharge and pay off the tax, or taxes, due thereon, respectively; and a copy of said list, as published, accompanied by the aff-

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deavit of the Public Printer, that the same has been published agreeably to the provisions of this act, shall be recorded in the Clerk's office of the Court of Appeals, and when so recorded, shall be *prima facie* evidence that said publication was made as prescribed by this act, and an attested copy of the same may be used on the trial of any cause, and shall have the same force and effect of other attested copies as now authorized by law. If the tax or taxes thus due, and advertised, upon the lots, or fraction of lots, are not paid on or before the time thus appointed for the sale, it shall be the duty of the Marshal to expose to sale, on the day, or days, so appointed, the said lots, or fraction of lots, or so much thereof as may be necessary to pay the tax, or taxes, due on them, respectively, to the highest bidder. The sale shall take place at the court house, in Frankfort, and in case of a sale, it shall be the duty of the Marshal to convey the same to the highest bidder, and his deed, thus made, shall pass the title of the lot, or fraction of lot, as purchased, to the purchaser: provided, however, that the same may be redeemed at any time within two years, by the original owner, or owners, or their assignees, by paying the purchaser, or his heirs or assigns, his purchase money, with interest at the rate of fifty per cent., annually, on the sum paid by him, and all costs and charges incurred by virtue of such sale; and provided also, that infants, and *femes covert*, and persons of unsound mind, shall have two years after their several disabilities are removed, to redeem their grounds.

How lots sold
for taxes may
be redeemed.

SEC. 23. That the Board of Trustees of the town of Frankfort shall have power and authority to assess, annually, levy, and collect, a tax on all real and personal estate within the limits of said town, not to exceed fifty cents on the hundred dollars worth of property. They shall have power to levy and collect a poll tax, not exceeding one dollar and fifty cents on all free male persons in said town over the age of twenty one years. They may tax all theatrical performances, shows and exhibitions of all kinds in any sum not exceeding ten dollars for such exhibition on any one day. They shall have the power and authority to tax all auctioneers in a sum not exceeding three per cent. for all goods, wares and merchandise, and articles sold to bidders within said town, except property sold by citizens of their own manufacture, or by order of court, or by executors, administrators or guardians, and shall have a lien on the article sold, or to be sold for such tax, until the same is paid, or the person selling the same takes out license for that purpose. They shall have power to license auctioneers, drays, wagons, carts, hacks, and coaches, plying in said town for hire. They shall have a lien on all real and personal estate in said town until all the taxes, due by the owners thereof, are paid, and all such property shall be liable to be sold, or so much thereof, as will pay such tax and costs of sale. They shall have power and authority to cause all stores and groceries within the limits of the town to be rated, first, second,

Power of the
trustees to as-
sess and levy
taxes.

Trustees may
tax theatres—
shows—auctions
and auctioneers
—may license
auct'rs, drays,
wagons, carts,
hacks & coach-
es.

Shall have a
lien on real &
personal estate
until taxes are
paid.

Stores and
groceries.

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May tax & have exclusive right to license taverns, groceries, victualers, confectioners, retailers and public houses, & may discontinue the same.

Must pay a certain amount of the tax on taverns, &c. into treasury, & how proceeded against for failing to pay the same.

County court not to license taverns in said town.

Stores not exempted from State revenue.

Jurisdiction and powers of the police judge regulated, and certain acts declared to be misdemeanors.

third, fourth, fifth and sixth rate, and to levy and collect a tax on each, not exceeding one hundred dollars per year, and when stores are taxed according to their rate, the goods therein shall not be valued and included in the assessment of property for taxation in said town: provided, however, that said Board of Trustees shall not be permitted to charge more on each class of stores and groceries than the following sums, viz: for class number one, one hundred dollars; number two, seventy five dollars; number three, fifty dollars; number four, forty dollars; number five, thirty dollars; and number six, twenty dollars. They shall have the right to tax, and the exclusive right to license, all taverns, groceries, victuallers, confectioners, retailers and houses of public resort, excepting gambling houses or houses of ill fame, within said town, and fix the tax therefor in a sum not exceeding two hundred dollars on each per annum, and to discontinue the said licenses, or any one thereof, at pleasure: provided, that they shall cause their Treasurer to pay, annually, into the public treasury, out of said tax for licenses, the amount belonging to the public revenue, and the said Board of Trustees shall be bound to make the annual reports of the amount of tax received therefor, and pay over the amount due thereon, to the State in the same manner that Clerks of the County Courts are required to do, and under the same penalties, and shall be liable to be proceeded against by the Auditor for any default in the same manner. Any law giving the County Court of Franklin county the power to grant tavern license within the limits of said town is hereby repealed: provided, however, that the provisions of this act shall in no wise change the mode of listing merchandise for taxation in said town for the State revenue or the collection of the tax thereon.

Sec. 24. That the Police Judge of the town of Frankfort, shall have jurisdiction, within the limits of said town, of all misdemeanors, and of all causes, civil, criminal, or penal, in which Justices of the Peace have jurisdiction; and that in criminal or penal cases, he shall have the jurisdiction now given by law to two Justices of the Peace, and shall proceed in the same manner that Justices of the Peace are required to proceed in such cases. He shall have full power and authority to require bail, and receive the acknowledgment and execution of recognizances of bail, in all cases originating before him in which bail is, or may hereafter, be authorized or required, by the law of the land; and such recognizances shall be taken in such form, and be returned in such manner, as is, or may be prescribed by the several laws authorizing or requiring bail. He shall be a conservator of the peace, and have jurisdiction over affrays, assaults and batteries, riots, breaches of the peace, unlawful assemblies, all cases of indecent or immoral behaviour or conduct calculated to disturb the peace and dignity of said town—over all cases of drunkenness, profane swearing, running horses, firing guns or pistols, making reports by burn-

ing powder, or matches, or crackers, blowing horns, flying kites, crying aloud by day or night, and all other riotous conduct whatever within said town; all of which are hereby declared to be misdemeanors. He shall have jurisdiction of all offences or causes arising out of the by-laws and ordinances passed by the Board of Trustees for the enforcement of the powers granted them by law. He shall have power to order the Marshal to summon a jury, in any case cognizable before him, when a jury would be required before the Circuit Court or a Justice of the Peace, and in all cases when the amount of the fine is not, or may not be fixed by law, the same shall be ascertained by the verdict of a jury. He shall have power to issue summons for witnesses in cases pending before him, and upon their failure to attend, may award compulsory process to compel their attendance. He shall have power, without the intervention of a jury, to fine and imprison for contempts, provided the fine does not exceed ten dollars, nor the imprisonment twelve hours. It shall be lawful for him to take depositions, and certify the same, when they are to be read as evidence in any cause pending in any court in this Commonwealth. He shall keep a record of his proceedings, a copy of which shall be evidence in all courts of justice, and have the same effect as the records of Justices of the Peace. All trials before the Police Judge, shall be held and had in the town of Frankfort.

Depositions
may be taken
before police
judge.

Sec. 25. That the Police Judge shall issue his process in the name of the Commonwealth, as other warrants, except in cases otherwise provided for in this act, and make them returnable before him as Police Judge of Frankfort. The same shall be directed to the Marshal, or to any Constable of Franklin county, and shall be executed and returned by the Marshal or Constable, as the case may be, under the same penalties as other process from Justices of the Peace: provided, however, that when any prosecution is instituted and carried on at the instance of the Board of Trustees, the warrant shall state that it issued at their instance, in which case they shall be entitled to the fine, or penalty recovered; and in case the defendant or defendants are acquitted, the said Trustees shall be liable for such costs as may be adjudged in favor of the defendant or defendants. The Police Judge shall be entitled to a fee of one dollar for a peace warrant, or for a warrant for a riot, rout, or breach of the peace, or unlawful assembly, or affray, or for any misdemeanor, or for a breach of any of the laws in relation to the town of Frankfort, or of any by-laws or ordinances of the Board of Trustees. He shall be entitled to a fee of twelve and a half cents for recording judgment; twelve and a half cents for an order of sale; twelve and a half cents for a subpoena; and twelve and a half cents for a certificate, and in all other cases his fees shall be the same as those of a Justice of the Peace for like services.

The mode in
which process
shall issue and
be returned by
police judge.

Fees of po-
lice judge.

Sec. 26. And, whereas, the said Trustees have incurred a large debt for the purpose of supplying the town of Frank-

The water
works placed

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under the con-
trol of trustees.

Trustees may
make by-laws
in relation to
the same, and
regulate the dis-
tribution of the
water.

May distrib-
ute the water
through public
square.

May con-
demn land for
the use of the
works, and se-
cure the right
of way.

Penalty for
injuring the
works or the
water and how
recovered.

fort, and the public buildings, with fresh water; and, *whereas*, it is represented to the General Assembly that, for the purpose of discharging and paying off this debt, the freeholders of said town are anxious and willing that an additional tax of fifty cents, upon each hundred dollars, per annum, should be imposed upon all the real estate in said town, for any term not exceeding three years; and, *whereas*, it is important and necessary that the said Trustees should have full power to complete said work, and protect the same when completed—therefore, *Be it further enacted*, That the legal title to the Water Works, now constructing, and proposed to be constructed, (from the point where they commence, at or near the Cove Spring, in the county of Franklin, to the point, or points at which they may ultimately terminate in the town of Frankfort,) together with all the fixtures, appurtenances and appendages thereto, and all the real estate which may hereafter be, or now is, secured for the purpose of said Water Works, together with all the right and privileges thereunto belonging, shall be, and is hereby, vested in said Trustees and their successors in office. The said Trustees, and their successors in office, shall have full power and authority to make any by-laws for the protection and security of said Water Works and their appurtenances, that they may deem necessary, provided the same are not contrary to the Constitution or the general laws of the State. They shall, also, have full power and authority to regulate, from time to time, the mode and manner in which the water shall be enjoyed, and may make such contracts with individuals, or corporations, for the use and enjoyment thereof; and may make and receive such mutual covenants and stipulations, in said contracts, as they may deem necessary. They may, also, distribute the water through the public grounds and buildings, in such mode and manner as they may think proper, and for that purpose, permission is hereby granted them to enter upon the public grounds and buildings. They shall have the power and authority to condemn any quantity of ground, not exceeding four acres, in the form of a square, around the spring from which they take the water; and, also, a strip of ground, not exceeding ten feet in breadth, from the said spring along the whole course of the main and branch pipes of said works; and, in making said condemnation, they shall proceed in the same manner as is now prescribed by law in relation to the Lexington and Ohio Railroad Company, and the title to the land, thus condemned, shall be vested in the said Trustees, and their successors forever, for the purposes aforesaid: provided, however, that the said Trustees may, if they think proper to do so, acquire the said quantity of ground, and the right of way, by private contract or contracts, and, on such private contract or contracts, may make and receive such mutual stipulations and covenants as they may think proper. If any person or persons shall wilfully or maliciously injure the said Water Works, or any part

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tion of the same, or any of the fixtures or appurtenances thereof, or shall attempt to divert the water with which it may be supplied from the same, or injure the wholesome and pure character of the said water, or the temperature thereof, every person or persons, so offending, shall, for every such offence, be subject to a penalty of not less than one hundred and not more than five thousand dollars, to be recovered, by motion, in the Franklin Circuit Court, in the name of the Board of Trustees of the town of Frankfort, and for their use; upon the trial of which motion, a jury shall be impaneled, who shall assess the amount of the penalty between the aforesaid limits of one hundred dollars and five thousand dollars. The fourth section of an act, entitled, an act for the benefit of the City School, in the town of Frankfort, and for other purposes, approved February first, eighteen hundred and thirty eight, is hereby repealed; and it is hereby further enacted, that the managers referred to in said act, or their successors, shall be, and are hereby, authorized to sell and dispose of the scheme, or any class or classes of the lottery referred to in said act, to any person or persons who shall enter into bond, with good security to the Commonwealth of Kentucky, with condition, well and faithfully to comply with all the terms and provisions of said act, thus amended, which bond shall be received by said managers, and be by them filed in the Clerk's office of the Franklin County Court, before said lottery, or any class thereof, shall be drawn; and if said bond and security is approved and declared to be sufficient by the said County Court, and also by the Board of Trustees of the Town of Frankfort, then, and in such case, the managers shall not be individually responsible for any prize or prizes that may be drawn. The said Trustees shall, also, have the power, and are hereby authorized to appropriate the net proceeds of said lottery in such proportion, to the City School and the said Water Works, as they may think expedient. The said Board of Trustees shall, in addition to the other taxes now imposed by law, and in addition to those authorized by this act, have power and authority to assess, levy and collect, a tax on all real estate, within the limits of said town, of fifty cents on each one hundred dollars in value, during a period of six years, including the present year, which tax shall be levied and collected in the same manner with other taxes of said town.

SEC. 27. That in all suits and prosecutions instituted by the Board of Trustees, they may, at their election, either adopt the ordinary mode of declaring and pleading, or may file a petition, stating, in plain and simple language, the cause of their complaint, and the character of the judgment which they require; upon which petition a summons shall issue, requiring the defendant or defendants to answer the same; and upon which summons, bail may be required, when the petition states a case in which bail is demandable by law; and upon the execution of the summons, the defendant or defendants shall, on

Trustees may levy an extra tax on real estate, to be applied to the construction of the works.

Mode of suing by the trustees, and manner of pleading simplified.

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the day when the same stands for trial, file a general traverse to the same; and in default thereof, a writ of enquiry shall be had, and damages assessed, as in ordinary cases, when a writ of enquiry is necessary; and when no writ of enquiry is necessary by the rules of law, a judgment shall be taken by default. No objection shall be taken to the form of the petition, if it apprise the defendant or defendants, with reasonable certainty, of the charge which he is called to answer; and under the issue as thus directed to be joined, either party may introduce any testimony that would be proper under any state of special pleading in bar, or replication thereto; and the defendant may also, under the issue, avail himself of any equitable defence which he may have to said petition. In such proceedings, by petition, such judgment shall be rendered and such executions be awarded as the justice of the case may require.

Power of former trustees, &c. vested in the present, & authority given to make by-laws, and how the same may be enforced.

Present trustees to continue in office until their successors are appointed.

Trustees may be sued in Franklin c'ty. alone.

Repealing clause.

SEC. 28. That the said Trustees shall exercise and possess all the powers and privileges which, by the general laws of the land in relation to towns, are granted to Trustees; and shall have full power and authority to make all the necessary by-laws and regulations for the purpose of carrying into effect the powers granted by this act; and also, such as may be necessary for the comfort, cleanliness, good order and security of said town, and the citizens thereof; and may enforce the same by adequate penalties, to be recovered in their name, before the Police Judge, or any Justice of the Peace: provided, the same are not contrary to the constitution or laws of the land. The present Trustees and officers of the town, shall continue in office until the Trustees are elected and qualified under the present act; and are hereby invested with all the powers, rights and privileges which the Trustees and officers to be elected under this act, will possess. No suit shall be instituted against the said Trustees, unless the same is instituted in the county of Franklin; and service of process on the Chairman of the Board shall be sufficient. Each and every act, or section of an act, coming within the purview of this act, is hereby repealed. This act shall be in force from the passage thereof.

Approved February 16, 1839.

CHAP. 1226.—AN ACT for the benefit of the estate of Guthrie Morris.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for Joseph Allen, administrator of Guthrie Morris, to file his bill in the Scott Circuit Court, against the widow and heirs of the said Morris, and alledge the amount of the personal assets, and the debts against the estate, which he has paid, and for which he is bound, and of the other debts against the estate, and the land

A sale of land authorized to pay debts.

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which descended; and the court shall cause his accounts to be stated by a commissioner, and the debts against the estate be ascertained; and if it shall be necessary to sell the real estate for the payment of the debts, it shall be lawful for the court to decree such sale, on reasonable credits, fixing, in the decree, the credits, and the minimum price at which the property shall be sold, and cause the same to be conveyed to the purchaser, and the proceeds to be applied to the payment of the debts: provided, that if the widow consents, her dower right may be sold, and the proceeds of her interest paid over to her; but if she claims dower, the court shall cause it to be assigned to her. That after paying the debts, should there be any surplus of the proceeds, it shall be paid over to the heirs and distributees, or their guardians, on their giving bond and security for the same.

Widow's
dower.

SEC. 2. That in decreeing the sale herein before provided for, the Chancellor shall so regulate his decree as to direct a sale of the interest of the heirs, subject to the widow's right of dower; and after said sale, to direct a sale of said dower right; and the proceeds of the said dower interest shall, as herein provided for, be paid over to the widow.

Interest of
heirs to be first
sold and then
the dower.

Approved February 16, 1839.

CHAP. 1227.—AN ACT to establish the town of Brooksville, in Bracken county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the town which has been laid off in the county of Bracken by the executors of John Thompson, deceased, contained within the following boundary, viz: Beginning at a stake in the cross roads; from thence with the Cincinnati trace road, N. fifty four degrees W., thirty four poles; thence N. thirty three degrees W., twenty poles, to a stone, corner to Joel Woodward's land; thence with his line, S. forty three degrees W., forty four poles, to a branch; thence with the meanders of the same, S. twenty four degrees, W. twelve poles; thence S. twelve degrees W., fifteen poles, to a white oak tree at the forks of said branch; thence S. fifty degrees E., forty poles, to a stake in the State road; thence with the same, N. forty six degrees E., sixty seven poles to the beginning; shall be, and the same is hereby established, upon the plan formed and laid down by said executors, to be known and called by the name of Brooksville.

Boundary.

SEC. 2. That Henry Fronk, John Hamilton, Stanfield C. Pinckard, Vincent Hamilton, and Isaac Day, are hereby constituted and appointed Trustees for said town; who shall continue in office twelve months from the first day of June next; and it shall be the duty of the said Trustees, to have the plan of said town recorded in the Clerk's office of the County Court of Bracken county, as soon as practicable.

Trustees ap-
pointed & their
duty.

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How trustees
to be elected.

SEC. 3. That it shall and may be lawful for the free white male inhabitants of said town, over the age of twenty one years, to meet at the court house in said town, on the first Monday in June, eighteen hundred and forty, and every year thereafter, and choose by vote, *viva voce*, five fit persons for Trustees, to serve for one year thereafter, and until their successors are duly elected.

Clerk to be
appointed, and
his duty.

SEC. 4. That said Trustees shall appoint a Town Clerk, who shall continue in office until the election succeeding his appointment; and in like manner each new Board shall appoint a Clerk, to serve for the same time, whose duty it shall be to keep a fair record of the proceedings of the Trustees, and give public notice, by advertisement in said town, at least ten days previous to any election of Trustees.

By-laws may
be passed.

SEC. 5. That the Trustees of said town, hereby appointed, and their successors in office, a majority of them concurring therein, shall have power to pass such by-laws for the government of said town and the inhabitants thereof, as to them shall seem expedient and right: provided, they be not contrary to the laws and constitution of this State.

Taxes to be
levied and col-
lected, & how
applied.

SEC. 6. That the said Trustees, a majority of them concurring therein, shall have power to levy and have collected, annually, a tax on the property in said town, now subject to taxation; and shall also have power to levy and collect a tax, annually, off the tythes in said town, provided it shall not exceed one dollar on each tythe, and fifty cents on each hundred dollars worth of property; to be appropriated and laid out by them, for the improvement of said town. They shall also have power, to appoint an Assessor, annually, who shall be sworn to the faithful discharge of his duties as such; it shall be his duty to make out and furnish to the Trustees, at such time as they may appoint, lists of the taxable property of each individual in said town, with the value attached thereto; and also, a list of lots, and the value thereof, which belong to individuals who do not reside in said town. Said Trustees shall also have power to appoint a Collector, annually, to collect the taxes assessed on the property and tythes in said town. Said Collector shall give bond with approved surety, to said Trustees, for the faithful performance of his duty; and the said Collector shall have power to make distress and sales, if necessary, in the same manner as is now authorized by law in regard to Sheriffs in collecting the revenue and county levy in this Commonwealth; and said Trustees shall allow to the Assessor and Collector for said town, a fair and adequate compensation for their services.

Assessor and
his duties.

Collector &
his duties.

How vacan-
cies to be filled.

SEC. 7. That should the office of Trustee, Clerk, Assessor or Collector, become vacant, it shall be lawful for a majority of the Trustees then remaining in office, to fill the same; and the person filling such vacancy, shall continue in office until the ensuing annual election.

Approved February 16, 1839.

CHAP. 1228.—AN ACT to incorporate the Town of Port Royal.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That so much of the county of Henry as is now embraced within the boundary of the town of Port Royal, and the inhabitants thereof, shall be, and the same is hereby created a body politic and corporate, with perpetual succession, by the name and style of the Town of Port Royal; and by that name and style, shall be capable in law, of contracting and being contracted with, of suing and being sued, pleading and being impleaded, answering and being answered, in all courts and elsewhere; and may have and use a common seal, and change, alter and renew the same, at pleasure.

Boundary & corporate powers.

SEC. 2. That the fiscal, prudential and municipal concerns of said town, with the government and control thereof, shall be vested in three Trustees, who shall be elected the first time on the first Monday in March next, and on the same day in each succeeding year, by the legal voters, resident citizens in said town; the Trustees shall be residents of said town, and lot-holders therein, and shall hold their offices for one year, and until their successors are elected and qualified; and they shall elect one of their own body chairman; and they shall be styled and known as the Chairman and Board of Trustees of the Town of Port Royal; and shall fill all vacancies which may occur in their own body, between the annual elections.

When and what number of trustees to be elected.

SEC. 3. The Chairman and Board of Trustees of the Town of Port Royal, shall appoint a Clerk, who shall keep a record of their proceedings, and may appoint all such other officers and agents as may be required in the transaction of the business of said town; and all the provisions and privileges, rights, benefits and advantages, vested by law in the Trustees of the Town of Crittenden, by an act of the General Assembly of the Commonwealth of Kentucky, approved February fifteenth, eighteen hundred and thirty eight, shall be, and the same are hereby vested in the Trustees of the Town of Port Royal, in the same beneficial manner as though the same were re-enacted and made applicable to the town of Port Royal, in the same words that they are made applicable to the town of Crittenden.

Clerk, &c. to be appointed.

Act incorporating the town of Crittenden adopted.

Approved February 18, 1839.

CHAP. 1229.—AN ACT to increase the powers of the Trustees of the Town of Columbia.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Trustees of the town of Co-

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May levy additional tax.

lumbia shall be, and they are hereby vested with full power and authority, annually to levy and collect, in lieu of the sum now authorized by law to be raised, by a tax on the real and personal property in the bounds of said town, and the donation lands attached thereto, any sum which they, in their discretion, may deem proper, not exceeding one hundred and fifty dollars; and also, that said Trustees may levy and collect, on each white male citizen of said town, over the age of twenty-one years, and each free black male over twenty one years, a poll tax, not exceeding fifty cents, to be assessed, levied and collected, as now directed by law.

Lien given on property for taxes.

Property may be sold for taxes—how & by whom.

How property may be redeemed.

Trustees may convey property sold.

Patrol may be employed.

SEC. 2. That for any tax to be levied under this law, upon the real and personal property in said town, and the donation land attached thereto, that there shall exist a lien in favor of the Trustees for said tax, unless the same shall be paid; and in case the owners of such property shall fail to pay such tax, on or before the first day of September in each year, it shall be lawful for said Trustees, by their Town Collector, to sell, at the court house door in said town, at the October County Court, so much of said real estate as will pay off and discharge the taxes due thereon, which shall vest the purchaser with the right to hold the same: provided, however, that the owner or purchaser of any estate so sold, their heirs, executors or administrators, may, at any time within two years, redeem the same, by paying or tendering to the purchaser thereof, the sum for which it sold, with interest thereon, at the rate of ten per cent. per annum, from the time of such sale, until the day of payment or tender; and if the owner of any property so sold, shall fail to redeem the same within two years, the Trustees shall, if required so to do, by the purchaser, convey the said estate so sold, to such purchaser; and if any such purchaser shall remove himself out of the county of Adair, within the time limited for redemption, such estate may be redeemed, by paying the purchase money into the hands of the Clerk of the Board of Trustees, with the per centum for the benefit of the purchaser, who shall pay over the same to the purchaser, or his order.

SEC. 3. That the Trustees of said town shall have power to employ a Town Patrol, as they may judge proper, to be paid out of any monies they may levy, at the discretion of the Trustees; and said Trustees shall have power to make any such appropriations as they may deem reasonable, and for the benefit of the citizens, in grading or levelling the public square, or all or any of the streets and alleys in said town; and to make such other improvements in said town, as they may deem necessary for the comfort and convenience of the citizens thereof.

Approved February 18, 1839.

CHAP. 1230.—AN ACT to establish the town of Hillsborough, in Fleming county

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Hillsborough, in the county of Fleming, shall be, and the same is hereby established; and it shall be lawful for the free white male inhabitants of said town, of the age of twenty one years, and upwards, to meet at such place as they may agree upon, in said town, on the first Monday in April next, (and in default thereof, on the first Monday in June thereafter,) and annually thereafter, on the first Monday in May, in every year, and elect by vote, *viva voce*, five fit persons for Trustees of said town, to serve for one year, and until their successors be duly elected; and the said Trustees may enact such by-laws and ordinances, not contrary to the constitution and laws of this Commonwealth, as they, in their discretion, may deem most expedient for the government of said town; and to impose fines and forfeitures for all breaches of the same; they shall also have power to lay and levy a tax on the inhabitants and property of said town: provided, the same shall not exceed fifty cents for each hundred dollars worth of property, with a poll tax not exceeding one dollar and fifty cents for each tytheable; and the said Trustees shall have power to purchase, or sell and convey the titles to any lots in the said town, in whom they shall, upon their appointment, be vested; and contract and be contracted with, to sue and be sued, plead and be impleaded, and to do all and singular, the acts and things, in their corporate capacity, concerning the premises, which individuals might lawfully do.

How and when trustees to be elected, term of office, &c.

Powers of trustees.

SEC. 2. That the said Trustees may fix the metes and bounds of said town, and have the same surveyed and platted, laid out into streets, alleys, and cross streets, as they may direct; which plats of the surveys of said town shall be by them returned to the Clerk of the Fleming County Court, to be by him recorded.

May fix the metes and bounds of the town.

Approved February 18, 1839.

CHAP. 1231.—AN ACT to establish an Election Precinct at S. R. Pace's store, in Barren county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be, and is hereby established, an election precinct, at the store of S. R. Pace, in Barren county; and all elections hereafter to be held at said precinct, shall be governed by the laws now in force upon the subject of elections.

Approved February 18, 1839.

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CHAP. 1232.—AN ACT to extend the limits of the town of Bowlinggreen, in Warren county.

WHEREAS, sundry citizens of Bowlinggreen, in Warren county, have petitioned the present General Assembly for an extension of the limits of said town, representing that many persons reside sufficiently contiguous thereto, to enjoy all the advantages of the same, without being subjected to its burthens—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the limits or bounds of said town of Bowlinggreen be, and they are hereby so extended and enlarged, that they shall not approach, at any point, nearer than one half mile to the court house in said town; and the Trustees of said town shall have the same jurisdiction over the territory so included, as they had over that within the former limits of the same.

Approved February 18, 1839.

CHAP. 1233.—AN ACT for the benefit of the Sheriff of Livingston county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Isham Clemment, Sheriff of Livingston county, be allowed further time until the first day of May, eighteen hundred and thirty nine, to settle with the Auditor of Public Accounts, and pay into the Treasury the balance of revenue tax due from said county, for the year eighteen hundred and thirty eight: provided, the securities of said Sheriff shall enter of record, in the Clerk's office of the County Court of said county, their assent to this indulgence; and that he shall deposit with the Auditor, a certified copy of such assent, so given, on or before the thirteenth day of February, eighteen hundred and thirty nine.

Approved February 18, 1839.

CHAP. 1234.—AN ACT for the benefit of the infant heirs of Samuel Pottinger, deceased.

Guarda may file petition in Nelson circuit court, praying sale real estate, &c.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for the present guardian, or such person as may hereafter be the guardian of Hardin L. Pottinger, Merriam G. Pottinger, infant heirs of Samuel Pottinger, deceased, by his petition, to apply

to the Nelson Circuit Court, for authority to sell the interest of said heirs, in the estate, real and personal, of their deceased brother, Robert C. Pottinger, on such terms and in such manner as will enable the said guardian to apply the proceeds of the sale of the interest of said heirs in the estate of their deceased brother, Robert C. Pottinger, to the necessary maintenance and suitable education of the said infant heirs, and making the said heirs defendants; in which petition he shall state the facts on oath, the value, as nearly as he is able to state the fact, of the value of the interest of the heirs in the estate, real and personal, of said decedent; and the said court, upon the presentation of said petition, thus verified upon oath, if they shall be of opinion that the sale of said property will redound to the benefit of the said infants, and is necessary to their suitable education, shall order said sale to be made upon such terms as shall seem to said court best.

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Court may
decree sale up-
on certain con-
ditions.

SEC. 2. That before the estate shall be sold, it shall be the duty of said court to take from the guardian a bond, with good surety or sureties, payable to the Commonwealth, conditioned for the faithful application of the funds to the objects in view; which bond shall be filed in the papers of the suit, and may be sued upon for a breach thereof, at the instance of one or both the heirs.

Guardian to
give bond, and
its condition.

Approved February 18, 1839.

CHAP. 1235.—AN ACT for the relief of the widow and heirs of Rob't S. Samuel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the administrator of Robert S. Samuel, be, and he is hereby authorized to file a bill in chancery, in the Woodford Circuit Court; alleging that his intestate had purchased a tract of land from one Benjamin Berry, containing one hundred and nineteen or twenty acres, and died before he obtained a title to the same, and before he had paid all the purchase money, showing the balance still due from the estate of said Samuel, in payment of the aforesaid tract of land, and likewise other debts of said estate, and also, the assets in his hands, and that the personal estate is insufficient to pay the debts; making the widow and heirs of said Samuel, and also Benjamin Berry, the vender of the land, parties to the bill, praying for a sale of the intestate's equity in said tract of land, and also a decree for the title to the purchaser; and the court shall cause the accounts of the administrator to be settled, and the whole personal estate applied to the payment of the debts, retaining the slaves for the use of the widow and heirs; and after ascertaining the amount of debts and the value of the real estate, may decree a sale of the land, fixing the minimum

Adm'r may
file bill in ch'ry
—for what pur-
pose.

Who to be
made def'ts.

Power and
duty of court.

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price, and the credits, and cause so much of the proceeds as may be necessary, to be applied to the payment of the debts, and the balance to be invested in profitable stocks or other lands, for the widow and heirs, in equitable proportions; and to make all orders and decrees that may be necessary to effectuate the object of this act.

Approved February 18, 1839.

CHAP. 1236.—AN ACT for the benefit of Thompson N. Stratton, late Sheriff of Lewis county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the further time of twelve months be, and the same is hereby allowed to Thompson N. Stratton, late Sheriff of Lewis county, to collect his fees, and such taxes as may have been paid by him for other persons; and it shall be lawful for him to use the same remedy for the recovery of the same, as he could have used the year they were due.

Approved February 18, 1839.

CHAP. 1237.—AN ACT to increase the capital stock in the Falmouth Bridge Company, and for other purposes.

WHEREAS, it is represented that the construction of a bridge over the Licking river, at Falmouth, would be of great public utility, as well as profitable to the State and stockholders, and that the amount subscribed by the State and individuals is insufficient to complete the same—therefore,

Capital stock
may be increas
ed.

Board of Int.
Imp't to sub-
scribe.

Provide,

Be it enacted by the General Assembly of the Commonwealth of Kentucky; That it shall and may be lawful for the directors of said Bridge Company to increase the capital stock therein, to such amount as may be necessary to complete said bridge; and the Board of Internal Improvement is hereby authorized and required to subscribe, on the part of the State, an equal number of shares, with individuals, corporations, or the Pendleton County Court: provided, that said Board shall be of opinion that the construction of said bridge will be of such public utility as to justify such additional subscription, and that the stock hereby authorized to be subscribed will be profitable to the State: and provided further, that said bridge shall be so built, as not to interfere with the navigation of said stream, by steamboats, or other water craft, at any stage of water.

Approved February 18, 1839.

CHAP. 1238.—AN ACT to increase the pay of Patrollers in the counties of Fayette, Henderson and Breckinridge.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, instead of the pay now allowed by law, a Captain of Patrollers in the counties of Fayette, Henderson and Breckinridge, shall be allowed one dollar and fifty cents, for every twelve hours he shall serve as a Captain of Patrollers; and the privates shall be allowed one dollar each, for every twelve hours they shall respectively serve as Patrollers; and they shall be governed in all respects, by the laws now in force, prescribing the duties of Patrollers.

Approved February 18, 1839.

CHAP. 1239.—AN ACT to establish a State road from the mouth of Salt river to Bowlinggreen, through Grayson county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of an act, entitled, an act to establish a State road from the mouth of Salt river to Bowlinggreen, through Grayson county, approved the sixteenth of February, eighteen hundred and thirty eight, as authorizes the commissioners to locate said road so as to pass by the White Sulphur Springs in Grayson county, be and the same is hereby repealed; and in the location of said road, under the provisions of this act, the same shall pass through Litchfield, in Grayson county, and through Brownsville, in Edmondson county, and, in all other respects, said road shall be located upon the most eligible and practicable route.

Part of former act repealed.

How road shall be located

SEC. 2. That Hippocrates Hail, of Hardin county, John Crutcher, of Meade county, Luther J. Talbot, Isaac Thomas, James Bartle and Thomas M. Yates, of the county of Grayson, Woodford Mitchell and Frederic Meredith, of the county of Edmondson, and Asa T. Mitchell, of the county of Warren, John C. Lawson and Benjamin Elder, of the county of Meade, and Burr Crutcher, of Breckinridge, be and they are hereby appointed Commissioners for the purpose of locating a road from the mouth of Salt river to Bowlinggreen, through Grayson county, according to the directions and provisions of the first section of this act: provided, that it shall be the duty of said Commissioners so to lay off said road, as to pass through the town of Big Spring, if, in the opinion of a majority of said Commissioners, the public will be benefitted thereby; and in case any owner or owners of land through which said road is proposed to run, shall refuse to relinquish the right of way for said road, it shall be the duty of said Com-

Commissioners appointed.

Proviso.

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missioners to make a report thereof to the County Court of the county where such owner resides, and thereupon, such proceeding shall be had as is prescribed by law in relation to the establishment of roads by the County Court.

Board Int'l.
Imp. to sub-
scribe on cer-
tain conditions.

SEC. 3. That so soon as the sum of two hundred and fifty dollars is raised, in Grayson county, by individual subscription, or by the levy of the County Court, and the same shall be certified by the aforesaid Commissioners to the Board of Internal Improvement, it shall be the duty of the Board of Internal Improvement to subscribe and appropriate the sum of five hundred dollars to aid in opening and improving said road, to be expended under the direction and superintendence of a Commissioner to be appointed by the Grayson county court, and in like manner, when any further sum shall be raised, by individual subscription or by levy in said county, the said board shall subscribe and appropriate, in the like ratio, to be expended on that part of said road between the mouth of Salt river and Litchfield.

Four com'rs.
to constitute a
quorum.

SEC. 4. That any four of the Commissioners, named in the second section of this act, shall constitute a quorum for the discharge of the duties herein provided; and in case the County Court of Edmonson shall, in like manner, raise any money, by a levy or by individual subscription, to aid in opening said road through said county, and the same shall be certified to the board of Internal Improvement by the Commissioners aforesaid, then the board shall subscribe and appropriate double the sum, thus raised, for the purpose of improving that part of the road which passes through Edmondson county, to be expended under the control of a Commissioner to be appointed by the Edmondson County Court.

Board Int'l
Imp't. to sub-
scribe when
county court of
Edmonson sub-
scribes a cert'n
amount.

Width of
road, and to be
laid off into pre-
cincts.

SEC. 5. That said road shall be opened thirty feet wide, and when opened, or any part thereof, under the provisions of this act, the County Courts of the counties through which it passes, shall lay it off into convenient precincts, and cause it to be kept in repair in the mode now prescribed by law where a road is opened by the order of the County Court.

Pay of com'rs
and how & by
whom allowed
and paid.

SEC. 6. That the Commissioners, aforesaid, shall be allowed the sum of two dollars per day each for their services, to be paid by their respective County Courts; and it shall be the duty of the County Courts, of the counties through which said road passes, so soon as the Commissioners aforesaid shall survey and locate the route for said road, to appoint overseers and cause the road to be opened.

Approved February 18, 1839.

CHAP. 1240.—AN ACT to incorporate the Trustees of the Republican School in Bracken county.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Frederick Fishback, George Barkley, Matthew Walton, John B. Blythe, and William O. Blackerby, citizens of Bracken county, and their successors in office, shall be and they are hereby constituted a body corporate, to be known by the name and style of the Trustees of the Republican School, and as such may sue and be sued, plead and be impleaded, in all courts in this Commonwealth and elsewhere.

Corporators names and corporate powers.

SEC. 2. That the corporation shall have power to acquire and hold, by purchase, devise, or otherwise, all such lands and tenements, money and property, as the Trustees thereof may think proper to purchase, or such as may be given or devised to the said corporation, and the same, and all real and personal property, owned by them, to dispose of by bargain and sale, or by any other mode, at pleasure.

May acquire, hold, and dispose of real & personal estate.

SEC. 3. That the real and personal estate, business, property, funds, and prudential concerns of said school, and the administration of its affairs shall be under the direction and control of said Trustees and their successors in office; and they may appoint a Treasurer, Clerk, and such other officers as they may deem necessary, fix their compensation, define their powers and prescribe their duties, and require of them such bonds, in such penalties, and with such conditions and sureties, as they may deem right. Any of said officers may be removed by the Trustees, stating the cause of such removal on their books.

Property, funds, &c. to be under control of trustees.

Clerk, &c. to be appointed.

SEC. 4. That the Board of Trustees, three of whom shall constitute a quorum, may, from time to time, make such by-laws, rules and regulations, for their own government and superintendence of said school, and all matters appertaining thereto which they may judge expedient and proper, not contrary to this charter nor the constitution and laws of this Commonwealth. The board shall have power to appoint a principal teacher and such assistant teachers as they, in their discretion, may deem necessary; and they shall have power and authority to remove any teacher for good cause, to be noted on the books of the Trustees. They shall, also, have power and authority to enforce the collection of any subscription, fines, or other dues to said institution.

May make by-laws, &c.

May appoint teachers, &c. & remove them.

May enforce payment of subscriptions.

SEC. 5. That all the estate, money, property and funds of the corporation shall be used in such manner as the Trustees may think proper in the construction of such buildings as may be needful; a majority of the Trustees, remaining in office, shall fill all vacancies which may happen by resignation, death, or otherwise. Removal from the county of Bracken, refusal or fail-

How funds, &c. to be applied.

How vacancies filled.

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ure to attend the Board of Trustees, when notified by the President of the Board, shall be a forfeiture of the office of Trustee: provided, however, that said board may excuse any absentee for good cause shown.

How contracts
&c. may be ex-
ecuted, &c.

SEC. 7. That it shall not be necessary for said corporation to procure a common seal, but all of its acts shall be manifested and made known by the signature of the President of the Board affixed to the document, contract, or writing executed, or by some entry or memorandum made on the records of the corporation; and all contracts, deeds, or writings made and executed or entered into, in the name of the corporation, and signed by the President, in his official capacity, in manner aforesaid, shall be good and binding in law. The President of the Board shall be elected annually, a majority of all the members present concurring.

Approved February 18, 1839.

CHAP. 1241.—AN ACT for the benefit of the representatives of Rodolphus B. Greathouse, deceased.

Preamble.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky that Rodolphus B. Greathouse died some time since, in the county of Hancock, leaving, among other property, a negro woman named Hannah, who is of violent temper and evil disposition, and has made threats of personal injury to the administratrix and her family, and has manifested a desire to runaway and unite herself to a negro man in the State of Indiana—for remedy whereof.

Petition may
be filed, and for
what purpose.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for Susannah R. Greathouse, administratrix, and Jonathan Greathouse, administrator of the estate of said Rodolphus B. Greathouse, to file a petition in the Hancock Circuit Court, setting forth the facts stated in the preamble hereto, and such other facts as may be deemed expedient, and making the heirs of the said Rodolphus parties thereto, and upon proof of the above facts being made out by affidavits or depositions, the said court shall have power to decree the sale of said negro woman, if it shall deem such sale to be for the benefit of the said estate, and shall further make such decree as will secure to the heirs, made parties thereto, the proceeds of such sale and the interest thereon, requiring such bond and surety as the court may deem proper.

Approved February 18, 1839.

CHAP. 1242.—AN ACT for the benefit of the heirs of Harmon A. Stidger, deceased.

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WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky that Harmon A. Stidger, of Spencer county, on the — day of —, eighteen hundred and thirty eight, died intestate, and that his personal estate is not sufficient to pay his debts—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Enoch K. Holsclaw and Charles K. Holsclaw, the Administrators of the said Stidger, be and they are hereby authorized to file a petition in the Spencer Circuit Court, making the heirs of said Stidger defendants thereto, and alledging the condition of the estate, and the amount of the debts over the personal property, and pray for a sale of so much of the real estate as will be necessary for the payment of his debts.

Petition in ch'ry may be filed, by whom and for what purpose.

SEC. 2. That if the heirs answer by their next friend, at the summer term of said court, the said court, if it shall appear to be advisable, render a decree for a sale of so much of said real estate as will be sufficient to pay the debts of said deceased, on such credit, and in such manner, as shall seem most advisable to the court, and to appoint a commissioner to carry into effect said decree; and the said court shall require the administrators to give bond with additional surety or sureties for the faithful application of the proceeds of said sale; said court shall, also, direct that such title shall be made to the purchaser or purchasers of said estate, and at such time as shall seem best.

Court may decree sale, &c.

Adm'r to give bond.

Approved February 18, 1839.

CHAP. 1243.—AN ACT to provide for running the line between Marion and Washington counties.

WHEREAS, it is represented to the present General Assembly that the Surveyor of Marion county, in violation of an act to settle the boundary line between the counties of Marion and Washington, approved, February twenty two, eighteen hundred and thirty seven, and without the co-operation of the Surveyor of Washington, has run a line between said counties, following the variation of the compass, instead of diverging therefrom: and, whereas, difficulties may arise in the assessment and collection of the taxes and the proceedings of courts of justice, from the fact that the line, as run by the aforesaid commissioner on the part of Marion, includes a great portion of the territory of the county of Washington—therefore,

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Com'rs appointed, and their duty prescribed.

Pay of com'rs &c.

Should the com'rs fail to act, others to be appointed, and how.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the said survey of the line aforesaid be and the same is hereby declared to be null and void, and that John R. McAtee, of Nelson, and James P. Mitchell, of Mercer counties, be and they are hereby appointed commissioners to survey said dividing line on the principles set forth in the act to settle said dividing line, approved, twenty second February, eighteen hundred and thirty seven, instead of the commissioners named in the said act; and the said commissioners shall receive four dollars per day for their services, to be paid by counties of Washington and Marion, equally, and that the chain carriers shall receive one dollar and fifty cents per day, to be paid in like manner.

SEC. 2. That if said commissioners, or either of them, shall fail or refuse to act, it shall be the duty of the County Courts of Marion and Washington to appoint such other commissioners as they may think proper.

Approved February 18, 1839.

CHAP. 1244.—AN ACT for the divorce of Maria K. Vance.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the marriage contract heretofore existing between Maria K. Vance and her husband, Elijah Vance, be, and the same is hereby, dissolved, so far as it relates to the said Maria K. Vance, and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Maria K. Kelly.

Approved February 18, 1839.

CHAP. 1245.—AN ACT in relation to certain Precincts in Lawrence and Hardin counties.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the place of voting at the house of Henry Haynie, in Lawrence county, be changed to that of James Rous, in said county; and all elections hereafter to be held at said precinct, shall be governed by the laws now in force upon the subject of elections.

SEC. 2. That the precinct in Hardin county, known as the Jo Hough precinct, shall be, and the same is hereby, abolished.

SEC. 3. That there shall be one additional election precinct in the county of Lawrence, and the place of holding said elec-

tion, shall be at the house of James Ward, on Rockcastle creek; and the County Court of Lawrence shall appoint Judges, and a Clerk, to attend said precinct, and in all things be governed by the laws now in force regulating elections in this Commonwealth.

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Approved February 18, 1839.

CHAP. 1246.—AN ACT vesting the Trustees of the towns of Lebanon and Springfield with power to cause certain streets of said town to be McAdamized or paved.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the Trustees of the town of Lebanon, and their successors in office, in the county of Marion, and State of Kentucky, to cause any part of the streets of said town to be graded, paved or McAdamized, on the petition of the owners of a greater part of the lots, and parts of lots, fronting on a square in said town, or on the petition of a majority of the property holders on any such square, the one half the cost at the expense of the property holders fronting on the street so improved, and the other half to be paid out of the taxes levied for the general purposes of said town, and the entire expenses of paving the intersections of streets in said town, shall be paid out of the common funds of the town; and the Trustees may cause the side walks to be graded and paved, at the sole expense of the owners of lots in front of whose property the improvement is made; and said Trustees may levy and collect the costs and expense of such improvements, from the owners of the lots, and parts of lots, fronting the improvement, in the same way as they are authorized to levy and collect the other taxes of said town, or they may require such owners to make the improvement in front of their property, and enforce the requisition by adequate fines and penalties.

Trustees of Lebanon may cause streets &c. to be pav'd —how paid for &c.

SEC. 2. That the Trustees of the town of Springfield, in Washington county, shall have power to compel the owners of lots on main cross street to pave or McAdamize the same, within ten feet of the limits of said lots, fronting said cross street, to Water street; and if the owner, or owners, of said lots, shall fail, or refuse, to pave, or McAdamize the same, from Main to Water street, the Trustees of said town shall, by law, direct the same to be done; and on refusal of the owner, or owners of the lots to do the same, the Trustees shall have power, by giving sixty days' notice of the time and place of sale, to expose the lots, or parts of lots, fronting on said street, to pay the expense thereof.

Trustees of Springfield may cause main cross street to be paved, &c.

Approved February 18, 1839.

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CHAP. 1247.—AN ACT to enlarge the powers of the Trustees of Brandenburg.

Boundary &
limits of town
defined.

Fiscal con-
cerns &c. vest-
ed in 7 trustees
—when & how
to be elected,
&c.

How vacan-
cies may be
filled.

Oath of of-
fice,

Name and
style and cor-
porate powers.

Trustees may
receive convey-
ances of real
estate, direct
improvements, &c.

May make
by-laws, &c.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Brandenburg, as laid off and described in the plan now recorded in the Clerk's office of the Meade County Court, and as enlarged by an act of the Legislature, extending the limits thereof, six hundred yards from the first boundary, approved February ninth, eighteen hundred and thirty six, shall be known, and is hereby declared to be the extent and limits of said town; and that the Ohio river shall be the northern boundary: that the prudential, fiscal and municipal concerns of said town shall be vested in seven Trustees, who shall hereafter be elected on the third Monday in May, annually, by the qualified voters of said town, who shall have lived in said town six months previously to said election; the same to be conducted by the Clerk of the board, who shall certify the names of the persons elected to the County Court, as is now directed by law. That said Trustees shall hold their office for the term of one year, or until others are elected or appointed; and they shall have power to fill vacancies that may happen in the board; and before entering upon the duties of their office, they shall take an oath, before some Justice of the Peace, faithfully to discharge all the duties devolving upon them during their continuance in office; and that the President of the Board shall have power to administer the oaths of office to all subordinate officers created by this act.

SEC. 2. That said Trustees, and their successors in office, shall be known by the name and style of "the Board of Trustees of Brandenburg," and by that name shall be capable, in law, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, of defending and being defended, in all courts and places; may use a common or private seal, and do all acts, matters and things which a body politic or corporate having perpetual succession, can lawfully do.

SEC. 3. That said Board of Trustees shall have power to make and receive all necessary conveyances of real estate in relation to said town. They shall have full power over the streets, alleys and side-walks now in said town, or which may hereafter be opened; may direct the improvement thereof by grading and paving, or McAdamizing the same, in such manner as they may deem most beneficial to the interests of said town. They shall have power and authority to make all necessary by-laws for the regulation and good government of said town, not inconsistent with the Constitution and laws of this Commonwealth. They shall have power to levy and collect a tax, upon the ad valorem principle, not exceeding twenty five cents on each hundred dollars of the value fixed upon the

property of each individual, that is now subject to taxation, under the existing revenue laws of this State, as well as a poll tax on each white male that may be tithable, not exceeding one dollar and fifty cents for any one year. They shall have power to tax all shows and exhibitions of every description, to suppress all tippling houses, riots, routs and unlawful assemblies of all kinds, and may recover fines from all those who shall violate any of their by-laws, in any sum not exceeding twenty five dollars for each offence, which may be recovered before any Justice of the Peace, giving the right of trial by jury, in all cases, if required by either party. They shall have power to suppress what are nuisances within said town, and may, by their by-laws, impose fines on those who may have caused the same; to provide for the security of said town against fire, by organizing fire companies, defining their duties, and punishing, by fine or otherwise, those who shall fail to perform the duties required of them.

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May tax shows, &c.

May suppress nuisances by fines, &c.

SEC. 4. That when, in the opinion of the Board of Trustees, it may be considered necessary to pave, grade, or otherwise improve any street, side-walk, or alley in said town, it shall be the duty of the board to call a meeting of the owners of lots on said street, side-walk, or alley, by causing an advertisement to be posted up, at the court house door in said town, giving notice of the time and place that said meeting is to be holden, at least ten days previously thereto; at which meeting a poll shall be opened, and a vote of the lot owners shall be taken, and if it shall appear that a majority of the lot owners on said street, side-walk, or alley, have voted in favor of making the proposed improvements, it shall be lawful for the Board of Trustees to levy a tax upon the lots on said street or alley, sufficient to make the proposed improvement, each lot holder paying in proportion to the value of said lot or lots, as returned by the assessor. But if it shall appear that a majority of the owners of lots on said street, side-walk, or alley, proposed to be improved, have not voted in favor of making the improvements, then, and in that event, they shall not be taxed for that purpose; and all persons who have contributed, by private subscription or otherwise, towards the grading and paving, now under contract in said town, shall have a credit for the same on any future assessment for similar purposes.

May close streets, &c. to be paved, &c.

Consent of owners of lots to be taken, & how.

May tax the owners of lots for improvements.

SEC. 5. It shall be the duty of said Board of Trustees to appoint, annually, a Commissioner to take in lists of taxable property under this act, who shall return two lists, in writing, made out in a fair and legible hand to said board, one for the use of the collecting officer, the other for the use of the board. They shall, also, appoint, annually, a Clerk, Treasurer and Marshal, and such other officers as may be necessary, and take from each of them, as they may deem necessary, bond and approved security, payable to themselves, in such penalty as they may deem proper—all of whom shall take an oath, to

Assessor to be appointed—his duty prescribed.

Clerk, treasurer, &c. to be appointed.

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be administered by the President of the board, or a Justice of the Peace, faithfully to discharge every duty enjoined upon them by their office.

Board to ap-
point chr'm.

Sec. 6. That it shall be lawful for said board to appoint some one of their own body President, who shall preside over all their deliberations, (except when absent, on which occasions the board may appoint a President pro tem.) and whose duty it shall be to assemble the board on all necessary occasions.

Duty of mar-
shal prescribed.

Sec. 7. That it shall be the duty of the Marshal, and full power is hereby given him, to distrain, for the annual town taxes, in all cases of nonpayment, and sell, if necessary, in the same manner as now authorized by law in regard to Sheriffs in collecting the county levy and revenue tax: provided, that in all sales of real estate for town tax, the lots levied upon shall be advertised for sale, at the court house door, on a County or Circuit Court day, at least one court previous to sale; and all sales of that description of property, shall take place in the court house yard, on a court day, for cash in hand: provided, also, that the original owners of any such lots of ground shall have the privilege of redeeming the same, at any time within two years after such sale, by paying, to the purchaser, the amount bid by him for the same, with fifteen per cent. interest thereon, and costs and charges of sale.

May levy &
collect taxes on
store boats.

Marshal's du-
ty in relation to
store boats.

May tax all
shows, &c.

Sec. 8. That said Board of Trustees shall have power to impose and collect a tax, not exceeding twenty dollars, from the owner or owners, manager or managers of each and every store boat that may land at said town, for the purpose of vending merchandize of any description, unless they have previously obtained a license from the Clerk of some County Court of this Commonwealth; and it is hereby made the duty of the Marshal to call upon all such persons, immediately upon their landing at said town, and ascertain whether they have taken out license elsewhere in this Commonwealth; and if such persons shall fail or refuse to produce such license, it shall be the further duty of the Marshal to prosecute such offenders, under the State law, for which services he shall be entitled to the sum of five dollars, to be paid by the offender or offenders, to be recovered in the name of the Commonwealth, for his use and benefit before a Justice of the Peace. They shall also have power to tax any theatre, show boat, or other exhibition on the river at the landing in any sum not exceeding fifty dollars.

Number re-
quisite for quo-
rum.

Sec. 9. That it shall only require three of the Trustees to constitute a board for the transaction of all kinds of business except in levying taxes upon the citizens and property holders of said town, when it shall require a majority of all the Trustees.

Sec. 10. That so soon as the wharf and pavement, now commenced, fronting the river two hundred feet, shall be completed to the top of the first bank, the Trustees shall have a right to levy and collect of each steamboat, flat or keel-

boat, making fast at the landing, a reasonable tax or wharfage, to be collected by the Marshal, as the board, by their order, may direct.

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SEC. 11. That all fines collected under and by virtue of the by-laws and ordinances, enacted by said Trustees, shall be for the benefit of said town, and the said Trustees are hereby authorized to receive and appropriate the same. How fines, &c. to be applied.

Approved February 18, 1839.

CHAP. 1248.—AN ACT for the divorce of Eliza H. Bush.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Eliza H. Bush, and her husband, Elkana B. Bush, is hereby dissolved, so far as relates to said Eliza; and she is restored to all the rights and privileges of an unmarried woman, and to her maiden name, of Eliza H. Simmerman.

Approved February 18, 1839.

CHAP. 1249.—AN ACT for the divorce of John M. Emmerson, Jr.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between John M. Emmerson, jr. and Mary M. Emmerson, be, and the same is hereby dissolved; and the said John M. is hereby restored to all the rights and privileges of an unmarried man.

Approved February 18, 1839.

CHAP. 1250.—AN ACT for the benefit of John G. Scrogin, Surveyor of Bourbon county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the County Court of Bourbon county, to allow and cause to be paid out of the county levy, to John G. Scrogin, Surveyor of said county, any sum which the said court may deem reasonable, for the services of said Scrogin, rendered in laying off said county into school districts, pursuant to the act passed at the last General Assembly, establishing a system of common schools.

Approved February 18, 1839.

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CHAP. 1251.—AN ACT for the benefit of Thomas Sweeney.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the County Court of Washington county, be, and they are hereby authorized to make an appropriation, out of the county levy of said county, for the support of Thomas Sweeney, of said county; any law authorizing the establishment of a poor house in said county, to the contrary notwithstanding.

Approved February 18, 1839.

CHAP. 1252.—AN ACT for the benefit of the heirs of John Carey, deceased.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the heirs of John Carey, deceased, own a lot in the city of Lexington, and also about eleven acres of land lying in Fayette county, which they have lately recovered in an action of ejectment, in the Fayette Circuit Court; and whereas, it is represented that William McClure, one of the heirs of said Carey, was the attorney in fact of most of the heirs interested, and that he owns most of the interest of said heirs, and has been the active agent in conducting the suit, for the recovery of the real estate aforesaid; and whereas, it is represented to the General Assembly, that it would be greatly to the interest of all parties concerned, that the real estate should be disposed of—for remedy whereof,

Bill in ch'ry.
may be filed &
for what purpose.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for any one of the heirs of said John Carey, deceased, residing in Kentucky, to file a bill in chancery, in any court where any one of said heirs may reside; and upon all parties interested in said lot and land, mentioned in the preamble, being before the court, the court may direct that said estate be sold, upon such terms and time, as may appear best, the purchaser giving bond and approved surety for the purchase money; and the estate so sold shall be subject to a lien for the purchase money.

How proceeds
of sale may be
disposed of.

SEC. 2. That in the event the court shall direct the sale aforesaid, it shall be the duty of said court to make distribution of the said fund, arising from said sale, according to the law now in force; and the interest of the non-resident and unknown heirs, he is directed to place in the hands of a Trustee for their benefit, or place the same in any solvent Bank in Kentucky, for their use; or he may direct the said fund to be loaned out, at six per cent. per annum, for any time, not exceeding one year at a time.

Approved February 18, 1839.

CHAP. 1253.—AN ACT for the benefit of William Vice.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Trustee of the Jury Fund for Bath county, be, and he is hereby authorized to surrender to William Vice, Sr., a note, which the said Trustee holds on William Rodgers, for the sum of one thousand dollars; or if he has collected any part thereof, the sum so collected; and the said Trustee shall have a credit for the same, on settlement of his accounts: provided, he stands charged, as Trustee aforesaid, with the said note, or any part thereof which he may have collected, and shall return, agreeable to the provisions of this act.

Approved February 18, 1839.

CHAP. 1254.—AN ACT for the benefit of the Sheriff of Montgomery county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of Montgomery county shall be allowed until the first day of March next, to return to the Auditor of Public Accounts his delinquent list or lists for the year eighteen hundred and thirty seven; and the Auditor is hereby directed to draw his warrant on the Public Treasurer, for the amount of said lists, so certified by the County Court of Montgomery.

Approved February 18, 1839.

CHAP. 1255.—AN ACT to incorporate the towns of New Haven and Hodgenville.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the free white male inhabitants over the age of twenty one years, residing in the town of New Haven, in the county of Nelson, and the owners of lots in said town, shall, on the first Monday in April, one thousand eight hundred and thirty nine, and on the same day in every year thereafter, meet at some convenient place in said town, and proceed to elect five Trustees for said town, who shall hold their office for one year next after their election; and the said first election shall be conducted under the direction of some Justice of the Peace of said county, who shall act as Judge therein; and said Trustees shall take an oath before some Justice of the Peace for said county, truly and faithfully to perform the duties enjoined on them by law, as Trustees.

When and
how trustees to
be elected.

1839

Name and
style and cor-
porate powers.

May pass by
laws.

May receive
conveyances of
real estate for
certain pur-
poses.

May levy &
collect taxes.

May contract
for sinking
wells, &c.

May tax all
shows, &c.

May pass by
laws to prevent
racing, &c.

Chairman to
be appointed &
his power and
duty.

How fines,
&c. to be ap-
plied.

Clerk to be
appointed and
his duty.

SEC. 2. That said Trustees, and their successors, shall be a body corporate, and by the name and style of the Trustees of the Town of New Haven, may sue and be sued, plead and be impleaded, in any of the courts of law or equity of this Commonwealth. They shall have power to pass all necessary ordinances and by-laws for the improvement, regulation and advancement of the morals of said town, not inconsistent with the constitution of the United States, or the constitution and laws of this State.

SEC. 3. That said Trustees shall have power to receive a conveyance, by donation or purchase, any lot or lots of ground in and near said town, for the purpose of the erection of a market house, school house, meeting house, or church, or any other necessary or needful public buildings; and may order, provide for, and contract for their erection. They shall have power to assess a poll tax on the legal tytheables of said town, not to exceed fifty cents a head, and to levy an *ad valorem* tax on the real and personal estate within said town, that is now taxed by the revenue laws of this Commonwealth, not to exceed fifty cents on each one hundred dollars worth of property. They shall have power to contract for the sinking of wells, the improvement of springs, the grading and improvement of the streets and alleys, and the paving of the side walks of said town. They shall have power to levy and collect, from the owner or managers of all exhibitions of animals, or shows of all and every description, that shall be exhibited within the limits of said town, any amount that shall be ordered by the Board of Trustees, not to exceed the sum of twenty dollars; and shall have power to pass by-laws to prevent racing or running horses within the limits of said town, or the suppression of all disorderly conduct or practice within the same. They shall appoint one of their own body as Chairman, who shall sign the record and proceedings of each meeting, who shall have power to call a meeting of said Board at any time, and preside over the meetings, keep order, &c. It shall require a majority of said Trustees to do business; and all fines and forfeitures that shall be recovered by virtue of the by-laws and ordinances enacted by the Trustees, and all taxes that shall be assessed and collected by said Trustees, shall be by them appropriated to the purchases and improvements before directed.

SEC. 4. That the said Trustees shall elect a Clerk, who shall continue in office one year, or until another is duly appointed; whose duty it shall be to preserve and safely keep all papers belonging to, or filed with said Board, and record all their proceedings, in a book to be procured by said Board for that purpose; and shall copy and certify all records and ordinances that may become necessary, and to record a map or plan of said town, in said book, when made out and furnished.

SEC. 5. That the said Trustees shall appoint an Assessor, to assess the property and persons within said town, liable to

taxation; and upon the performance thereof, said Trustees shall fix and direct the payment of his compensation.

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SEC. 6. That said Board shall have power and authority to appoint a Collector, who shall have power and authority to collect, by distress or otherwise, the tax levied upon the persons and property within said town, as before directed.

Collector & his duty.

SEC. 7. That before said Collector shall proceed to perform the duties prescribed in the sixth section of this act, he shall execute bond before said Trustees, in such penalty as the Board shall direct, with sufficient security, to be approved of by them, payable to said Trustees, conditioned for the faithful collection of said tax, and the payment of the same over to said Trustees, or to such person or persons as they shall direct; and for a breach of the condition of said bond, said Trustees shall have power and authority to move against said Collector, either by suit on said bond, or motion in the Nelson Circuit Court; and by a judgment of said court, recover against said Collector and his securities, any amount of money that may be found due from him, with twenty per centum thereon, and shall have execution therefor, against them; and the Clerk of said court shall endorse thereon, that no security of any kind shall be taken.

Collector to give bond.

May be sued on, and how.

SEC. 8. That the said Board shall have power to appoint a Treasurer, who shall keep the funds of said Board safe, and pay the same over, by order of said Board, or the Chairman thereof, to such person or persons as he shall be directed; and said Board may require bond and security of said Treasurer, conditioned as aforesaid, and for a breach of said bond, shall be subjected to the same proceedings, and subject to the same penalties, that are prescribed in the seventh section of this act against delinquent Collectors.

Treasurer to be appointed—his duty.

Treasurer to give bond, &c.

SEC. 9. That said Board shall fix, by law, the rate of compensation to all of her subordinate officers; and shall have authority to sue for and recover all penalties annexed to a breach of the ordinances and by-laws, before a Justice of the Peace, or any other proper tribunal, having jurisdiction thereof.

Compensation to officers, and how fines to be recover'd.

SEC. 10. *Be it further enacted*, That the town of Hodgenville, in Hardin county, be, and the same is hereby incorporated, as now laid off, and all the provisions of this act shall be applicable to the said town; and the legal title to all the lots of the said town, which have been sold by the Trustees of said town, appointed by the County Court, and which have not been conveyed to the purchasers, or their assignees, shall be vested in the Board of Trustees elected under this act, and their successors; and they are hereby empowered to convey the same, as if it were done by the former Board of Trustees, whenever the proper certificates of purchase and payment are presented; and the said conveyances shall pass the title.

The town of Hodgenville incorporated.

Trustees may convey lots, &c

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CHAP. 1256.—AN ACT for the benefit of the Sheriff of Jefferson county.

WHEREAS, it is fully proven to this General Assembly, that sundry citizens of the city of Louisville, have, through mistake, listed their property for taxation, with two of the commissioners of said county, for the year eighteen hundred and thirty eight, thereby charging the Sheriff of said county with double tax thereon; and the Sheriff having fully accounted for the amount of both taxes—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby directed to issue his warrant on the Treasury, in favor of Robert N. Miller, Sheriff of Jefferson county, for the sum of eighty four dollars, to be paid out of any money in the Treasury not otherwise appropriated.

Approved February 18, 1839.

CHAP. 1257.—AN ACT appointing Trustees of the Lebanon Academy, in Todd county.

WHEREAS, it is represented to this General Assembly, that the Trustees of the Lebanon Academy, in the county of Todd, are dead, or have removed from said county, with the exception of one, who refuses to act—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Edmund Ware, sen'r., St. Clair J. Leavell, George W. Garth, A. G. Slaughter, John Massie, T. M. Ewing, H. Durrett, and W. A. Garth, be and they are hereby appointed Trustees of the Lebanon Academy, with all the powers vested in the original Trustees of said Academy; and that the act incorporating said Academy, entitled, an act establishing the Lebanon Academy, in the county of Christian, approved the seventeenth of December, eighteen hundred and ten, be, and the same is hereby continued in force, &c.

Approved February 18, 1839.

CHAP. 1258.—AN ACT to incorporate the Paris Fire, Life, and Marine Insurance Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Hugh I. Brent, Abraham Spears, Thomas Kelly, James M. Cogswell, Richard Keiningham,

Corporators
names and cor-
porate powers.

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Thomas Elliott, and John Rootes Thornton, together with those who shall hereafter become stockholders, as hereinafter directed, shall be, and they are hereby, created and made a corporation and a body politic, by the name and style of "The President and Directors of the Paris Fire, Life, and Marine, Insurance Company," and by that name shall have perpetual succession, and be capable, in law, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of law or equity in this Commonwealth, or elsewhere, and to contract and be contracted with; with full power and authority to acquire, hold, possess, use, occupy, and enjoy, and the same to sell, convey and dispose of all such real and personal estate which shall be necessary and convenient for the transaction of its business, or which may be conveyed to said company for the security, or in payment of any debt which may become due and owing to the same, or in satisfaction of any judgment of a court of law, or any order or decree of a court of equity, in their favor; and to make and use a common seal, and the same to alter or renew at pleasure, and generally to do and perform all things relative to the objects of this institution, which now is, or shall be, lawful for any individual, or body politic or corporate to do.

Sec. 2. That the persons named in the first section, or a majority of them; shall open books of subscription for the stock in said company, which stock shall consist of two thousand shares, of one hundred dollars each, payable in gold or silver coin, and at the time of subscription they shall have a right to demand and receive five dollars on each share, and to have secured the residue, to the satisfaction of the corporation, payable in six months; which obligations may be renewed from time to time, either for the whole, or such part thereof as the president and directors shall determine. And it shall be the duty of the president and directors to give at least thirty days' notice of any call they may think it expedient to make; and in case of failure of any stockholder to meet such call, or to secure the payment of the remainder, as aforesaid, it shall be lawful for the president and directors to sell such delinquent shares, and transfer the same to the purchaser, or to declare them forfeited to the company, together with all previous payments thereon. No transfer of stock shall be deemed valid and complete so long as the person transferring the same, shall be indebted to the said company, until the amount for which he is so indebted, is secured to the satisfaction of the president and directors: and the stock of every stockholder shall be held as collateral security for the payment of whatever sum he may be indebted to said company, by note, for stock, or otherwise.

Sec. 3. That the stockholders shall meet in Paris, in Bourbon county, at the place of opening books for the subscription of stock in said company, on the first Monday in May, eighteen hundred and thirty nine, or so soon as a sufficient

When & how
books are to be
opened, and
amount of cap-
ital stock,

How stock is
to be paid and
secured.

How stock
may be forfe'd.

President &
directors to be
elected. When
and how.

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number of shares shall have been subscribed and paid, and secured to be paid for, as herein provided, upon giving two weeks notice of the time of such meeting, in the newspaper published in said town, and at the office of the company, on the first Monday in May, in each succeeding year, and elect a president and six directors, who shall continue in office until the first Monday in May of the ensuing year, and until their successors shall be elected; of which election, previous notice shall be given in a newspaper printed in Paris, if one be published there, if not, then in some newspaper printed in Lexington, at least two weeks; and in case of the death, resignation, or removal of the president, from the county, the directors may elect some person to fill such vacancy, for the residue of the year; and no person shall be chosen a director who does not own five shares of the stock.

Who entitled
to vote on stock
and number of
votes that may
be given.

Sec. 4. That in all elections by the shareholders, each share, to the number of ten, shall be entitled to one vote; and every five shares, over that number, owned by the same person, shall entitle him to one additional vote; but no person who is not a resident of the State of Kentucky, shall have a vote, and no shareholder shall have a vote at any election for president and directors unless he shall have been the owner of the stock three months prior to said election, by regular transfer upon the books of the company; and shares may be voted on by the executor or administrator of the deceased owner, or by proxy.

Officers and
agents may be
appointed.

By-laws and
ordinances.

Sec. 5. That the president and directors, for the time being, shall have power to appoint such officers and agents under them, and at such places as shall be necessary for the executing the business of said company, and to allow such compensation as may be agreed upon, and to require and take bond and surety for the faithful discharge of their respective duties and trusts; and the said president and directors shall have power to make by-laws and ordinances to govern the corporation, and may repeal, alter and amend them; and the president and three directors shall constitute a quorum for the transaction of business, or four directors without the president, one of whom shall be chosen president for the time being.

May make
insurance and
on what.

Sec. 6. That the president and directors, for the time being, shall have power and authority, in the name of the company, to make insurance at such rate of premium, or interest, as may be agreed upon by the parties upon buildings, furniture, machinery, goods, wares, and merchandise, of every description, against fire, in town or country; and also to make all kinds of insurance on every description of property transported by land or water within the United States; and likewise to make insurance on lives, by sea or water, or on shore, and to contract for, grant and sell annuities, and to make all kinds of contracts in which the casualties of life or property are involved; and every such contract, bargain, agreement or

policy to be made by the said corporation shall be in writing or in print, and shall be signed by the president, and shall be attested and signed by the secretary or clerk, who may be appointed by the president and directors for that purpose.

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SEC. 7. It shall be the duty of the president and directors, on the first Mondays of May and November; in each and every year, to make a dividend of so much of the profits of said corporation, as to them, or a majority of them, shall appear advisable; and in case of any loss or losses, whereby the capital stock of the corporation shall be impaired or lessened, no subsequent dividends shall be made until a sum equal to such diminution, arising from the profits of said corporation shall have been added to the capital.

May make
dividends of
profits.

SEC. 8. The corporation shall not issue notes or bills of credit, nor in any manner engage in the business of banking, otherwise than in the purchase and sale of bank-stock. Nor shall said corporation commence business, or grant any policies of insurance, until five hundred shares are subscribed and paid for, or secured to be paid, as provided for in the second section. So much of the capital stock of said company as may not be permanently invested, may, at the discretion of the president and directors, be loaned on promissory notes, at a discount not exceeding that authorized to be made by the banks incorporated by this Commonwealth, and at no greater rate of discount, without a forfeiture of the whole debt.

Shall not issue notes or bills of credit, and shall not issue policies until a certain amount is subscribed.

SEC. 9. That whenever said corporation shall be notified of any loss sustained or incurred on any policy of insurance granted or issued by the same, it shall be the duty of said corporation to pay the amount so lost or incurred on such policy, within sixty days after being so notified: provided there shall have been no violation of the condition of the policy on the part of the insured.

When and how losses are to be paid to the insured.

Approved February 18, 1839.

CHAP. 1269.—AN ACT to amend the charter of the town of Paducah.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter when the office of Chairman of the Board of Trustees for the town of Paducah shall become vacant by the death, removal or resignation of the Chairman of the Board of Trustees, two thirds of these that are in office, concurring, shall have the power to fill said vacancy, and said Chairman, so elected, shall be vested with all the powers and rights vested in the Chairman of that Board by an act approved February thirteenth, eighteen hundred and thirty eight.

Chairman of board to be elected.

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Former law
repealed.

SEC. 2. That so much of the sixth section of an act, incorporating the town of Paducah, approved February thirteenth, eighteen hundred and thirty eight, as regards the Clerk, Assessor, Treasurer, Marshal and Market Master to give a lien on their lands and slaves belonging to them and their sureties from the time of the execution of their official bonds, for all sums of money that shall come into their hands, be, and the same is hereby, repealed.

SEC. 3. That it shall be the duty of the Governor, by and with the advice and consent of the Senate, to appoint a judicial officer, to be styled "the Police Judge of Paducah," who shall be commissioned as such during good behavior; who, before he enters upon the duties of his office, shall take an oath before some Justice of the Peace, to discharge the duties of his said office faithfully and impartially, to the best of his ability, without favor, affection, or partiality, together with such other oaths as public officers are usually required to take. The said Police Judge shall have jurisdiction, within the limits of said town, of all causes, civil and criminal, in which Justices of the Peace have jurisdiction; he may sit as a Court of Inquiry in criminal cases, in which he shall have the jurisdiction now given by law to two Justices of the Peace, and shall proceed, in like manner, as said two Justices are required to proceed in criminal cases. He shall have jurisdiction of all offences under the by-laws of said town, and shall have power to enter judgment and award execution accordingly. He shall have full power and authority to grant injunctions and restraining orders against absent defendants, writs of *ne exeat* and *habeas corpus* under the same rules and regulations prescribed by the several acts authorizing certain Justices of the County Courts to grant injunctions, writs of *ne exeat* and *habeas corpus*; and it shall be the duty of said Judge to keep a record of his proceedings, a copy of which shall be evidence, and shall have the same effect as records of Justices of the Peace. He shall have power to issue summons for witnesses to give evidence in cases pending before him to compel their attendance; he shall have power to issue compulsory process. He shall have power to fine and imprison for contempt, provided that said fine shall in no case exceed ten dollars, nor the imprisonment twelve hours. He shall have power to order the Marshal to summons a jury in any case cognizable before him, when a jury would be required before a Circuit Court or a Justice of the Peace. It shall be lawful for said Police Judge to take depositions and certify the same, when they are to be read as evidence in any cause pending in any court in this Commonwealth. He shall be entitled to the following fees, viz: to a fee of one dollar upon every application for an injunction, *ne exeat*, restraining order, or writ of *habeas corpus*, to be paid in advance or collected as other fees; and in every case in which the injunction, *ne exeat*, or restraining order, so applied for shall be granted, the fee aforesaid shall be

Police Judge.

His oath.

Jurisdiction.

His fees.

charged in the bill of costs against the defendant, unless said injunction, *ne exeat*, or restraining order, shall have been discharged; for a peace warrant, or warrant for a riot, rout, or unlawful assembly, or breach of the peace, fifty cents; for issuing a warrant for a violation of the by-laws of said town, or in any case where the Trustees are plaintiffs, twenty five cents; for swearing a jury and presiding on the trial in any case, except forcible entry and detainer, fifty cents; for taking recognizance to keep the peace, upon the application of any person, fifty cents, to be charged to the applicant. All other fees of said Judge shall be the same as those allowed Justices of the Peace for like services, and to be collected in the same way.

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SEC. 4. That upon all judgments rendered by the said Police Judge, each party shall have the right to appeal from said judgments in the same manner that appeals are taken from judgments of Justices of the Peace in similar cases.

Appeals from
his judgments.

Approved February 18, 1839.

CHAP. 1260.—AN ACT to allow an additional Justice of the Peace and Constable for Washington county.

WHEREAS, it is represented to this General Assembly, that the people of Washington county labor under great inconveniences for want of a Justice of the Peace, and Constable in the neighborhood of Stinnett's old place—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be allowed to the county of Washington an additional Justice of the Peace and Constable, both of whom may reside in the vicinity of Stinnett's old place.

Approved February 18, 1839.

CHAP. 1261.—AN ACT to regulate the mode of appointing Trustees to the Cumberland Hospital.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That, hereafter, in the appointments to the office of Trustee of the Cumberland Hospital, the Governor shall not nominate more than three of the five Trustees, who may have held that office at any time during the year next preceding.

Approved February 18, 1839.

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CHAP. 1262.—AN ACT to regulate the town of Clay Village.

**Trustees ap-
pointed.** SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Isaac N. Guthrie, James Sanders, William Kent, Henry Sanders and William McGrew, be and they are hereby appointed Trustees of the town of Clay Village, and shall continue in office until the first Saturday in August, eighteen hundred and thirty nine, and at the expiration of their term, it shall be lawful for the citizens of said town to elect five Trustees for said town, the above named Trustees giving ten days' notice of the time and place of such election of their successors, who shall remain in office one year after their election.

Annual election, & vacancies how filled. SEC. 2. That there shall be an election held for Trustees on the first Saturday in August in every year, and when any vacancy shall happen by death, removal, or resignation, the Board of Trustees shall have power to fill such vacancy until the next annual election of Trustees in and for said town.

Voters. SEC. 3. That each free white male person of the age of twenty one years, being an actual resident of said town, or holding title to real estate therein, shall be entitled to vote for Trustees.

Powers of trustees. SEC. 4. That the Trustees of said town shall have power to make rules and enact such by-laws for the regulation and government of said town as they shall deem necessary, provided such by-laws are not contrary to the constitution and laws of this State; and the said Trustees shall have power to inflict a fine not exceeding five dollars for every breach of their by-laws, to be sued for and recovered in their name before any Justice of the Peace for Shelby county, and to be applied to the use of the town.

Tax on shows. SEC. 5. That the Board of Trustees shall have power to levy a tax on all shows and exhibitions in said town not exceeding ten dollars for every twenty four hours such show or exhibition may remain and be kept open in said town.

Clerk and treasurer. SEC. 6. That said Board of Trustees may appoint a Clerk and Treasurer, and it shall be the duty of the Clerk to keep a fair record of the proceedings of said board, which shall be open for the inspection of any person desiring to see the same; and the board may make any allowance to said Clerk for his services out of any funds which may come into their hands under the provisions of this act.

Treasurer to give bond. SEC. 7. The Treasurer appointed by said board shall receive all moneys collected under the provisions of this act, and pay the same on the order of the board; and they shall take bond and security from their Treasurer for the faithful performance of the duties assigned him; and a majority of said board shall constitute a quorum to do business.

Approved February 18, 1839.

CHAP. 1263.—AN ACT to incorporate the town of Runsey, and to amend the charter of the town of Caseyville, in Union county.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the land, in Muhlenburg county, within the following boundary, beginning at a point on Green river, where the upper line of sixth street, as laid down on the plat of the town of Runsey, recorded in the office of the Muhlenburg County Court, will strike said river, and running thence South 35° West with said line, and continuing three hundred and ten poles to a stake; thence North 55° West to the river; thence up the river, with the meanders thereof, to the place of beginning, shall be established and known as the town of Runsey.

Runsey.

Town boundary.

SEC. 2. That the fiscal, prudential and municipal concerns, of said town shall be vested in five Trustees, who shall be elected, annually, on the first Monday in June by the free white male inhabitants over the age of twenty one years, and who have resided in said town six months previously to said election; which said Trustees shall hold their offices for the term of one year, and until their successors shall be elected and qualified. That said Trustees, before they enter upon the duties of their said office, shall take an oath, before some Justice of the Peace, that they will faithfully, and without favor or affection to any one, discharge the duties of Trustees to said town during their continuance in office; that in case a vacancy shall take place in said Board of Trustees, they shall have power to fill such vacancy. That no person shall be a Trustee of said town, who is not, at the time of holding the same, a citizen thereof, and who has not resided therein at least twelve months previously to his election; and the said first election shall be conducted under the direction of Charles M. Baber, or some other Justice of the Peace of said county, who shall advertise the place in said town of holding said election, and shall act as Judge therein; and the said board shall appoint some fit person to hold and superintend each succeeding election, who shall give notice, at least three days previously thereto, of the place of holding the same, by advertisement in two or more public places in said town, and return to the Clerk of said board a certificate setting forth the names of the persons elected as Trustees of said town.

Trustees—
their powers &
duties.

SEC. 3. That said Trustees shall have power to make and receive all necessary conveyances in relation to the lots, public grounds, streets, and alleys, in said town. They shall have power over the public grounds, streets, alleys, and side walks in said town; may direct the improvement of the same, in such manner as they may deem most beneficial to the interest of said town. They shall have power and authority to make all necessary by-laws for the regulation and good government of said town, not incon-

Conveyances.

Powers of
Trustees.

By-laws.

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Taxes.

Tippling houses

Nuisances.

Fire companies

Incorporated

Treasurer & clerk.

Duties of treasurer and clerk.

Chairman of the board.

sistent with the constitution and laws of this Commonwealth. They shall have power to lay and collect a tax upon the property, as well as on the citizens of said town, so as not to exceed, in any one year, the sum of five hundred dollars. They shall have power to suppress all tippling houses, and to fine all those who may violate their by-laws, in relation to said town, any sum not exceeding twenty five dollars for each offence, which may be recovered before any Justice of the Peace for said county. They shall have power to abate nuisances within the limits of said town, and may, by their order, direct the same to be abated, or may, by their by-laws, impose a fine on whomsoever may have caused the same. They shall have power to remove and abate all and every obstruction in any street, alley, side-walk, or public ground, in said town. They shall have power to provide for the security of said town against fire, by organizing one or more fire companies, defining their duties, and punishing, by adequate fines and other penalties, those who shall fail to perform the duties required of them.

SEC. 4. That said Trustees, and their successors in office, shall be a body politic and corporate, and shall be known by the name and style of the Trustees of the town of Rumsey; and by that name and style shall be capable, in law, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, of defending and being defended, in all courts and places; and may use either a common or private seal.

SEC. 5. That it shall be the duty of said Trustees to appoint a Treasurer and Clerk, and such other officers as they may deem necessary, and take from them, respectively, bond with surety or sureties, payable to the Commonwealth of Kentucky, in such penalty as the said Trustees, or a majority of them, shall direct, conditioned for the discharge of their respective duties; and for a violation of duty, on the part of either of said officers, motions may be made or suits brought before any tribunal having jurisdiction thereof, in the same manner and under the same rules and regulations that motions are now made, and suits brought against Sheriffs, Constables, or other officers, for a failure of duty; and, moreover, the said Trustees, or majority of them, shall have power and authority to remove either of them for failing to do their duty, and appoint others in their places.

SEC. 6. That it shall be the duty of said Treasurer and Clerk to keep a record of their proceedings, which properly belong to their respective offices; and it shall be the duty of said Treasurer to render an account to said Trustees of all moneys received and paid out by him whenever by them required so to do.

SEC. 7. That it shall be the duty of said Trustees to appoint one of their body chairman of their board; and that no money shall be drawn from the Treasury of said town except by the order of the chairman, in pursuance of allowances made by

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a majority of said Trustees; that a majority of said Trustees shall, at all times, constitute a quorum for the transaction of business.

SEC. 8. All fines and forfeitures, and all moneys collected by a judgment of any court or a Justice of the Peace, for a violation of any by-law of said Trustees, committed within the limits of said town, shall be paid over to said Treasurer.

Fines & forfeitures.

SEC. 9. *Be it further enacted*, That Egbert Wooldridge, Wm. Fightmaster, Berney Hancock, J. W. Finnie and John Casey, be and they are hereby appointed Trustees for the town of Caseyville, who shall continue in office one year, from and after the first Monday in April, eighteen hundred and thirty nine, and until their successors are duly elected and qualified, in the manner prescribed in an act, entitled, an act to incorporate the town of Caseyville, in Union county, approved the twenty first of December, eighteen hundred and thirty seven, to which this is an amendment; and, before they shall act, they shall take an oath before some Justice of the Peace of this Commonwealth, well and truly to perform the duties of their said office according to law, and to the best of their abilities; a certificate thereof shall be recorded in the record book of the Board of Trustees.

Caseyville.
Trustees appointed.

SEC. 10. That said Trustees, and their successors, shall be and they are hereby authorized to make a deed of conveyance to the purchaser or purchasers, their heirs or assigns, for the lots in said town, when it shall appear to them that the purchase money has been paid, warranting the title thereof against themselves and their successors.

Conveyances.

SEC. 11. That for a breach or violation of any of the by-laws or ordinances that may be passed by the Board of Trustees of said town, a right of action shall accrue to said Trustees, who may prosecute the same in their names before any Justice of the Peace within this Commonwealth, and upon a collection of any execution, that may issue, upon any such judgment, shall be applied by said Trustees for the benefit and improvement of said town.

Proceedings against persons for violating by laws.

SEC. 12. That the Board of Trustees of said town shall have power to receive by purchase, donation, or otherwise, for a lot or lots, within said town, for the erection of a market house, a house or houses of public worship, burial ground; and shall have power to make any improvements on the streets, alleys, or river bank, within said town, and make contracts for the performance of the same.

Trustees may hold lots for certain purposes.

Make improvements.

Approved February 18, 1839.

CHAP. 1264.—AN ACT to incorporate the town of Louisa, in Lawrence county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the free white male inhabitants, trustees. Election of

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residing in the town of Louisa, in the county of Lawrence, and the owners of lots, in said town, shall, on the first Saturday in May, one thousand eight hundred and thirty nine, and on the same day in every year thereafter, meet at the court house in said town, and proceed to elect five Trustees for said town, who shall hold their offices for one year next after said election, and until their successors are duly elected and qualified; and the first election shall be conducted under the direction of John Crabtree, or some other Justice of the Peace of said county, who shall act as Judge therein; and said Trustees shall take an oath before some Justice of the Peace, for said county, truly and faithfully to perform the duties enjoined on them, by law, as Trustees.

Trustees incorporated.

SEC. 2. That said Trustees, and their successors, shall be a body corporate, by the name and style of the Trustees of the town of Louisa; may sue and be sued, plead and be impleaded, in any of the courts of law or equity of this Commonwealth; they shall have power to pass all necessary ordinances and by-laws for the improvement, regulation and advancement of the interest and morals of said town, not inconsistent with the constitution of the United States, or the constitution and laws of this State.

The powers and duties of the Trustees.

SEC. 3. That said Trustees shall have power to receive a conveyance, by donation or purchase, any lot or lots of ground in or near said town for the purpose of erecting a market house, school house, or meeting house, or any other necessary or needful public buildings, and may order, provide for, and contract for their erection; they shall have power to assess a poll tax on the legal titheables of said town, not to exceed, in any one year, one dollar a head, and levy an *ad valorem* tax on the real and personal estate within said town that is now taxed by the revenue laws of this Commonwealth, not to exceed twenty five cents on each hundred dollars worth of property; they shall have power to contract for the grading and improving any of the streets or alleys of said town; they shall have power to levy and collect from the owner or managers of all exhibitions of animals or shows, of all and every description, that shall be exhibited within the limits of said town, any amount that shall be ordered by the Board of Trustees, not to exceed the sum of twenty dollars; and shall have power to pass by-laws to prevent racing or running horses within the limits of said town, or the suppression of all other disorderly conduct within the same; they shall appoint one of their own body as chairman, who shall sign the records and proceedings of each meeting; who shall have power to call a meeting of said board at any time, and preside over the meeting, keep order, &c.; it shall require a majority of said Trustees to do business; and all fines and forfeitures that shall be recovered, and all taxes that shall be assessed and collected by said Trustees, shall be by them appropriated in the purchases and improvements before directed.

Sec. 4. That said Trustees shall elect a clerk, who shall continue in office one year, or until another is duly appointed, whose duty it shall be to preserve and safely keep all papers belonging to or filed with said board; and shall attend the meetings of said board, and record all their proceedings in a book to be procured by said board for that purpose; and copy and certify all records and ordinances that may become necessary.

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Clerk.

Sec. 5. That said board shall cause the by-laws and orders which they may make to be copied by their clerk, and within three days thereafter to cause said copy to be posted on one door of the court house in said town.

By-laws to be posted on the court house door.

Sec. 6. That said Trustees shall appoint an assessor to assess the property and persons within said town liable to taxation; and upon any person in said town refusing to give in his or her property to said assessor, the person so refusing shall be liable to a fine of not more than ten dollars nor less than two dollars, to be recovered before a Justice of the Peace, by warrant, in the name of said Trustees, which shall be appropriated as other money is directed by this act; and said Trustees shall fix and direct the payment and compensation of said assessor.

Assessor.

Sec. 7. That said board shall have power and authority to appoint a collector, who shall have power and authority to collect, by distress or otherwise, the tax levied upon the persons and property within said town, as before directed.

Collector.

Sec. 8. That before said collector shall proceed to the performance of the duties prescribed in the seventh section of this act, he shall execute bond, before said Trustees, in such penalty as the board shall direct, with sufficient security, to be approved of by them, conditioned for the faithful collection of said tax, and the payment of the same over to said Trustees, and payable to said Trustees or to such person or persons as they shall direct; and for a breach of the condition of said bond, said Trustees shall have power and authority to move against said collector, either by suit on said bond, or motion in the Lawrence Circuit Court; and, by a judgment of said Court, recover against said collector and his securities any amount of money that may be found due from him, with twenty per centum thereon, and shall have execution therefor against them; and the clerk of said court shall endorse thereon that no security of any kind shall be taken.

Collector to give bond, &c.

Sec. 9. That the said board shall have power to appoint a treasurer, who shall keep the funds of said board, safe and pay the same over, by order of said board, or the chairman thereof, to such person or persons as he shall be directed; and said board may require bond and security of said treasurer, conditioned as aforesaid, and for a breach of said bond shall be subject to the same penalties that are prescribed in the eighth section of this act against delinquent collectors.

Treasurer.

Sec. 10. That said board shall fix, by law, the rate of compensation to all her subordinate officers, and shall have author-

Compensation of officers.

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ty to sue for and recover all penalties annexed to a breach of their ordinances and by-laws, before Justices of the Peace, or other proper tribunal having jurisdiction thereof.

Deeds for lots.

Sep. 11. That the Trustees of said town shall make deeds of conveyance to the several proprietors of lots which are included in the patent of F. Moore, provided that Charles I. Forbes, his agent or attorney, shall give a written order to that effect. That the Trustees of said town shall make deeds of conveyance to the several proprietors of lots not included in the patent to said Moore, provided that said Forbes, his agent or attorney, and Thomas, Samuel or Thompson Beest, or either of their agent or attorney, shall give a written order to that effect. The deeds so made by the Trustees, in pursuance of said orders, shall vest the legal title in the grantee. The Trustees of said town shall return to the Clerk of the County Court of Lawrence all such orders, with the deed or deeds which they may make by virtue thereof, and said Clerk shall record all such orders within eight months after coming to his hands, and retain the originals in his office; and for his services, in recording said orders, said Clerk shall be entitled to twenty five cents for each order.

Approved February 18, 1839.

CHAP. 1265.—AN ACT to incorporate the Kentucky and Louisville Mutual Insurance Company.

Company incorporated.

Corporate powers.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That John W. Tyler, John B. Bland, James Stewart, Elisha Applegate, Thomas Glass, Minor Redd, William Sale, and Thomas Coleman, and all other persons who may hereafter become members of said Company, in the manner herein prescribed, be, and they hereby are incorporated and made a body politic, by the name of the "Kentucky and Louisville Mutual Insurance Company," for the purpose of insuring their respective dwelling houses, stores, shops, and other buildings, household furniture and merchandize, against loss or damage by fire, whether the same shall happen by accident, lightning, or any other means, except that of design in the insured, or by the invasion of an enemy, or insurrection of the citizens of this or of any of the United States; and by that name may sue and be sued, plead and be impleaded, appear, prosecute and defend, in any court of record, or other place whatever; may have and use a common seal; may purchase and hold such real and personal estate as may be necessary to effect the objects of their association, and the same may sell and convey at pleasure; may make, establish, and put in execution, such by-laws, ordinances and resolutions, not being contrary to the laws of this State or of the United States, as may seem.

necessary or convenient for their regulation and government, and for the management of their affairs; and do and execute all such acts and things as may be necessary to carry into full effect the purposes intended by this charter.

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SEC. 2. That all and every person and persons who shall at any time become interested in said Company, by insuring therein, and also their respective executors, administrators and assigns, continuing to be insured therein, as hereinafter provided, shall be deemed and taken to be members thereof, for and during the term specified in their respective policies, and no longer; and shall, at all times, be concluded and bound by the provisions of this act.

Members of
the company.

SEC. 3. There shall be a meeting of said Company, in the city of Louisville, on the first Monday in December, annually, or on such other day as the said Company may hereafter determine; at which first annual meeting shall be chosen, by a major vote of the members present, and by proxy, a Board of Directors, consisting of not more than fifteen, nor less than nine members, who shall continue in office until others have been chosen, and accepted the trust in their stead. In all vacancies happening in said Board, whether by removing from the State, dying, or refusing or neglecting to act, for and during the space of three months successively, then, and in every such case, another Director shall be chosen, in the place of each Director so removing, dying, refusing or neglecting to act, as aforesaid, by a majority of the Directors present at any monthly meeting; which Director, so chosen, shall remain in office until the next general election of Directors; and a majority of the whole Board shall constitute a quorum for the transaction of business. At their first regular meeting, the Board of Directors shall class themselves, by lot, into three classes, of an equal number, each; the terms of whose service shall respectively expire as follows: The first class in one year, the second class in two years, and the third class in three years. Special meetings of said Company may be called, by order of the Directors, or whenever the owners of one tenth part of the property insured in said Company shall apply to the Directors, setting forth, in writing, the purposes for which a meeting is desired.

Board of di-
rectors to be
chosen.

Vacancies
filled.

Quorum.

Directors
classed.

Special meet-
ings.

SEC. 4. The Board of Directors shall superintend the concerns of said Company, and shall have the management of the funds and property thereof, and of all matters and things thereunto relating, not otherwise provided for by said Company. They shall have power, from time to time, to appoint a Secretary, Treasurer, and such other officers, agents and assistants, as to them may seem necessary; and prescribe their duties, fix their compensation, and take such security from them, as they may deem necessary for the faithful performance of their respective duties. They shall determine the rates of insurance, the sum to be insured on any building not exceeding two thirds of its value, nor one half the value of personal

§ Powers of the
board.

Appoint a
Secretary and
other officers.

Fix rates of
insurance.

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Issue policies
of insurance,
provide books,
&c.

Draw on treas-
urer for the
payment of loss
es.

Appoint pre-
sident and hold
meetings.

To procure a
suitable build-
ing for their
business.

Insurances.

Articles that
are not objects
of insurance.

property, and the sum to be deposited for the insurance there-
of. They shall order and direct the making and issuing of all
policies of insurance, the providing of books, stationary, and
other things needful for the office of said Company, and for
carrying on the affairs thereof; and may draw upon the Treas-
urer for the payment of all losses which may have happened,
and for expenses incurred in transacting the concerns of said
Company. They shall elect one of their own number to act
as President, and may hold their meetings monthly, and oftener
if necessary, for transacting the business of the Company; and
shall keep a record of their proceedings; and any Director dis-
agreeing with a majority of the Board, at any meeting, may
enter his dissent, with his reasons therefor, on record.

SEC. 5. It shall be the duty of the Directors of said Compa-
ny, whenever the premium notes thereof shall amount to the
sum of one hundred thousand dollars, to build, or cause to be
built or procured, for the use of said Company, a fire proof
building, suitable for the transaction of business, and for the
preservation of the funds and other property belonging to said
Company, from destruction, by reason or means of fire; and
for the purpose of providing said building, the Directors may
assess any sum not exceeding five per cent. of the amount of
premium notes aforesaid, in any one year; and it shall be the
duty of the Directors to keep said building in proper repair,
and to renew the same in whole or in part, as they may think
necessary and expedient.

SEC. 6. The Directors shall extend the insurances of said
Company to every part of this State, on all the real and per-
sonal property within the same, with the exceptions and provi-
sions hereinafter enacted, not exceeding the sum of ten thous-
and dollars in any one risk, at such rate or rates as said Direc-
tors may, in view of the equity of the case, and the interest of
the Company, determine. Insurances shall be made in all cases,
upon the representation of the assured, contained in his appli-
cation therefor, and signed by him or his attorney; which re-
presentation shall, in fairness and good faith, state all the ma-
terial circumstances within his knowledge, which may effect the
risk: provided, that in case of any loss or damage by fire, the
valuation of the property, at the time of such loss or damage,
shall be determined by the award of impartial men, as herein-
after provided for.

SEC. 7. Books of accounts, written securities, or evidences
of debt, title deeds, manuscripts, or writings of any descrip-
tion, money or bullion; shall not be deemed nor taken to be
objects of insurance in said Company. Curiosities, jewels,
medals, musical instruments, plate, paintings, sculpture, statu-
ary, watches, gold or silver ware of any kind, shall not be
deemed to be included in any policy of insurance, unless those
articles, or any of them, form part of the usual and regular
stock in trade of the assured, or are particularly specified in
the policy. Breweries, chemical establishments, bleaching

houses, oil mills, or the contents of either of them, alcohol, aqua fortis, gunpowder, spirituous liquors, tar, turpentine, varnish, or any other trades, wares or merchandize, which may hereafter be excluded by said Company, at any annual meeting, shall never be deemed insurable by the Directors of said Company, nor any policy issued thereon.

SEC. 8. Every person who shall become a member of said Company, by effecting insurance therein, shall, before he receives his policy, deposit his promissory note, for such sum or sums of money as shall be determined by the Directors; a part not exceeding ten per cent. of which note shall be immediately paid, for the purpose of discharging the incidental expenses of the institution; and the remainder of said deposit note shall be payable in part, or the whole, at any time when the Directors shall deem the same requisite for the payment of losses, or other expenses; and at the expiration of the term of insurance, the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses occurring during said term, shall be relinquished and given up to the signer thereof.

Persons becoming members to deposit their notes, &c.

SEC. 9. Every member of said Company shall be, and hereby is, bound to pay his proportion of all losses and expenses happening and accruing in and to said Company; and all buildings insured by and with said Company, together with the right, title and interest of the assured, to the lands on which they stand, shall be pledged to said Company; and the said Company shall have a lien thereon, against the assured, during the continuance of his, her or their policies.

Every member to pay his proportion of losses, &c. and a lien given on his property insured.

SEC. 10. In case of any loss or damage by fire, happening to any member, upon property insured in and with said Company, the said member shall give notice thereof, in writing, to the Directors, or some one of them, or to the Secretary of said Company, within thirty days from the time such loss or damage may have happened; and the Directors, upon a view of the same, or in such other way as they may deem proper, shall ascertain and determine the amount of such loss or damage; and if the party suffering is not satisfied with the determination of the Directors, the question may be submitted to referees, or the said party may bring an action against said Company, for said loss or damage, at the next court to be holden in and for the circuit of Jefferson, and not afterwards, unless said court shall be holden within sixty days after said determination; but if holden within that time, then at the next court holden in said county, thereafter; and if, upon the trial of said action, a greater sum shall be recovered than the amount determined upon by said Directors, the party suffering shall have judgment therefor, against said Company, with interest thereon, from the time such loss or damage happened, and costs of suit; but if no more shall be recovered than the amount aforesaid, the said party shall become non-suit, and the said Company shall recover their costs: provided, however, that the judgment last mentioned shall in no wise affect the claim of said

Notice of losses to be given.

Amount of loss ascertained & how recover'd.

Proviso.

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suffering party, to the amount of loss or damage, as determined by the Directors aforesaid : and provided, also, that execution shall not issue on any judgment against said Company, until after the expiration of three months from the rendition thereof.

Directors to settle the amt to be paid by the members & recover the same.

SEC. 11. The Directors shall, after receiving notice of any loss or damage by fire, sustained by any member, and ascertaining the same, or after the rendition of any judgment as aforesaid, against said Company, for such loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective proportions of such loss, and publish the same in such manner as they shall see fit, or as the by-laws may have prescribed ; and the sum to be paid by each member, shall always be in proportion to the original amount of his premium note, or notes ; and shall be paid to the Treasurer within thirty days next after the publication of said notice ; and if any member shall, for the space of thirty days after such notice, neglect or refuse to pay the sum assessed upon him, her or them, as his, her or their proportion of any loss as aforesaid, in such case the Directors may sue for, and recover the whole amount of his, her or their deposit note, or notes, with costs of suit ; and the money thus collected, shall remain in the Treasury of said Company, subject to the payment of any such losses and expenses as have or may thereafter accrue ; and the balance, if any remain, shall be returned to the party from whom it was collected, on demand, after thirty days from the expiration of the term for which insurance was made.

When deposit notes are insufficient to pay losses, the members to make contribution.

SEC. 12. If it shall ever so happen that the whole amount of deposit notes should be insufficient to pay the loss occasioned by any one fire, in such case the sufferers insured by said company shall receive, towards making good their respective losses, a proportionate dividend of the whole amount of said notes, according to the sums by them respectively insured, and in addition thereto, a sum to be assessed on all the members of said company, not exceeding fifty cents on every hundred dollars by them respectively insured ; and the said members shall never be required to pay for any loss, occasioned by fire, at any one time more than fifty cents on each hundred dollars insured in said company in addition to the amount of his deposit note, nor more than that amount for any such loss after his said note shall have been paid in and expended ; but any member, upon the payment of the whole of his deposit note and surrendering his policy, before any subsequent loss or expense has occurred, may be discharged from said company.

What policies of insurance are valid

SEC. 13. Said company may make insurance for any term not exceeding ten years ; and any policy of insurance issued by said company, signed by the President and counter signed by the Secretary, shall be deemed valid and binding on said company in all cases where the insured has a title, in fee simple, unincumbered to the building or buildings insured and to the land

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covered by the same; but if the insured have a less estate therein, or if the premises be incumbered the policy shall be void, unless the true title of the assured and the incumbrances on the premises be expressed therein.

SEC. 14. The directors shall settle and pay all losses within three months after they shall have been notified as aforesaid, unless they shall judge it proper, within that time, to rebuild the house or houses destroyed, or repair the damages sustained, which they are empowered to do in convenient time, provided they do not lay out and expend, in such building or buildings, more than the sum insured on the premises, but no allowance is to be made in estimating damages, in any case, for gilding, historical or landscape painting, stucco or carved work, nor are the same to be replaced if destroyed by fire.

Losses to be paid in three months or damages repaired.

SEC. 15. When any house or other buildings shall be alienated, by sale or otherwise, the policy thereupon shall be void, and be surrendered to the directors of said company to be cancelled; and upon such surrender, the assured shall be entitled to receive his, her or their deposit note, upon the payment of his, her or their proportion of all losses and expences that have accrued prior to such surrender: provided, however, that the grantee or alienee, having the policy assigned to him, may have the same ratified and confirmed to him, her or them for his, her or their own proper use and benefit, upon application to the directors, and with their consent, within thirty days next after such alienation, on giving proper security to the satisfaction of said directors for such proportion of the deposit or premium note as shall remain unpaid, and by such ratification and confirmation, the party causing the same shall be entitled to all the rights and privileges, and subject to all liabilities to which the original party insured was entitled and subjected under this act.

When houses &c. are sold, policy void.

Proviso:

SEC. 16. If any alteration should be made in any house or building by the proprietor thereof, after insurance has been made thereon with said company, whereby it may be exposed to greater risk or hazard from fire than it was at the time it was insured, then, and in every such case, the insurance made upon such house or building shall be void, unless an additional premium and deposit, after such alteration, be settled with and paid to the directors; but no alterations or repairs in buildings not increasing such risk or hazard shall, in any wise, affect the insurance previously made thereon.

When any alteration is made in a house by which risk is increased, policy to be void without additional premium.

SEC. 17. In case any building or buildings, situate upon leased lands and insured by said company, be destroyed by fire, and the owner or owners thereof prefer to receive the amount of such loss in money, in such case the directors may retain the amount of the premium note, given for the insurance thereof, until the time for which insurance was made shall have expired, and at the expiration thereof the assured shall have the right to demand and receive such part of said retained sum or sums as has not been expended in losses and assessments.

Buildings on leased lands.

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Double ins-
urances.

SEC. 18. If insurance on any house or building shall be or subsist in said company, and in any other office or from and by any other person or persons at the same time, the insurance made in and by said company shall be deemed and become void, unless such double insurance subsist by and with the consent of the directors, signified by endorsement on the back of the policy, signed by the President and Secretary.

To engage in
no business ex-
cept insurance
against fire.

SEC. 19. The company hereby created shall not be concerned in any trade or other business, except the insurance of property against loss or damage by fire; nor shall said company, by any possible construction of the powers granted in this act, exercise any banking privileges whatever.

Annual as-
essment.May borrow
money to make
up deficiency.

SEC. 20. The directors of said company shall not make more than one assessment for losses in any one year; and in order that such assessment may be made payable at the annual meeting of the company, the directors are authorized, in case of any loss or damage by fire, to borrow such sum or sums of money as may be required to pay such loss or damage; and in making the annual assessment, the interest accruing on money borrowed, and, also, all necessary incidental expences shall be included in such assessment.

SEC. 21. Each and every member of said company shall be entitled to and allowed an examination of the books, papers and general transactions of said company upon application therefor to the Secretary.

Annual re-
port.

SEC. 22. It shall be the duty of the directors to make an annual report of the condition, progress and affairs of said company, a copy of which report shall be furnished to the General Assembly.

Board of di-
rectors consti-
tuted at first
election.

SEC. 23. The individuals named in the first section of this act, shall be, and they are hereby, constituted a board of directors for said company, to serve as such until the first annual election of directors therein provided for. They shall have power, if they think fit, to make up their number to fifteen, as allowed in the third section of this act, from among the members of said company; and all vacancies which may occur in said board by death, resignation, removal or refusal to serve, may be filled by the remaining members of said board; and a majority of their number, at any time, shall constitute a quorum for the transaction of business. They may call the first

First meeting
to be called.

meeting of the members of said company at any suitable time and place in the city of Louisville, by advertisement in the several newspapers printed in said city, giving at least ten days notice of the place, time and design of the meeting. They

By-laws.

may make and establish by-laws for the government of said company until the first annual meeting thereof, and may transact any business necessary and proper to carry into effect the provisions and intentions of this act: provided, however, that no policy shall be issued by said company until his Excellency, the Governor of the State, shall have made proclamation that application has been made for insurance in said company on

Proclamation
of Governor.

fifty thousand dollars at least, of which notice shall be given him by the directors.

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SEC. 24. The directors may allow to the President, Secretary and agents of said company, reasonable salaries and compensation for their services; and it shall be lawful for this company to agree with the insurance companies in the city of Louisville, that have been incorporated by this State, to unite in the erection of a suitable fire proof building for the offices of all such companies, or with such of them as shall deem it advisable; and they may, by deed, declare the amount each shall contribute for the purchase of a lot, and the erection of suitable buildings, also for the repair and insurance of the same, and as to the rooms each shall be entitled to.

Salaries of President, &c.

May unite with other companies in the erection of a fire proof building for offices.

Approved February 18, 1839.

CHAP. 1266.—AN ACT authorizing the Clarke County Court to appoint a Treasurer.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Clarke County Court be hereby authorized, (if to them it shall seem expedient,) from time to time, to appoint a county Treasurer, who shall continue in office one year, and until his successor shall be appointed and qualified; but said court shall not make said appointment unless a majority of all the Justices are present; nor shall any person holding the office of Justice of the Peace, Clerk of or Attorney for the County Court, Sheriff or deputy Sheriff, Coroner or Constable hold said office of Treasurer; and he shall take an oath, in open court, faithfully to execute the duties of said office, and also execute bond, in such penalty and with such sureties as said court may approve, payable to the Commonwealth, with condition for the due execution of his duties as Treasurer aforesaid, and for the payment and delivery to his successor, or to the order of said court, of the moneys remaining in his hands as Treasurer, and the books and papers appertaining to said office, and for the payment to the county creditors of the moneys levied for them, and which may come to his hands under the provisions of this act; and it shall be his duty to collect, from the sheriffs and other collecting officers, all moneys due to said county, and disburse the same as said court shall direct; and perform such other acts in relation to the collection and disposition of the county dues as said court may prescribe; and keep, in a book to be furnished by said court, a fair settlement of the moneys so received and disbursed, and report to the said court at the court of claims, and at such other terms as the court may, from time to time, designate, a statement of his transactions as Treasurer.

Treasurer may be appointed.

His oath and bond.

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Liability of
treasurer and
proceedings a-
gainst him.

SEC. 2. That for breach of the condition of said bond, suits may be brought by the Justices of said court, or any other persons aggrieved thereby, in the Circuit Court against said Treasurer and his surety or sureties, or either of them, on the same terms and conditions as in other cases of official bonds executed by public officers; and in case said Treasurer shall fail to pay to any county creditor or claimant, after due demand, any sum specially levied for him or her, or by said court specially directed to be paid by said Treasurer to said creditor or claimant, the said Treasurer and his sureties shall be subject to a judgment before the Clarke Circuit Court, or said County Court, or a Justice of the Peace, either jointly or severally, by motion, after ten days previous notice, if it shall appear to the said Circuit or County Court, or Justice of the Peace, on the trial of said motion, that at the time of the presentation of said demand or claim, the said Treasurer had money of the said county in his hands sufficient to defray said demand or claim and legally applicable thereto; and the said Circuit or County Court, or the Justice of the Peace, by their judgment shall adjudge to the plaintiff, as damages, twenty five per centum on the amount of said demand or claim besides the costs of motion, provided that the said Circuit or County Court shall not have jurisdiction of said motion, unless said claim or demand shall exceed the sum of fifty dollars: and, provided further, that nothing in this act contained shall be so construed as to prohibit the Sheriff, or other collector of the county dues, from paying claims against the county and receiving a credit therefor in his settlement with the County Court as heretofore; and that the defendant or defendants in such judgment, shall not have a right to replevy executions issued on judgments rendered upon said bond, but the Clerk or Justice shall endorse on such executions "no security of any kind to be taken."

Sheriffs to
pay levies, &c.
to treasurer.

Proviso.

SEC. 3. That it shall be the duty of the Sheriff, or other collector of the county levies, to pay to the said Treasurer the whole amount levied three months after it shall become due, after deducting the claims or demands against the county, paid by said Sheriff, or other collecting officer, which it shall be the duty of said Sheriff or other officer to pay such creditor or claimant as heretofore, provided that if such demand or claim is not applied for or paid within said three months; and if said money so levied shall be paid to the Treasurer as directed by this section, then the said Sheriff, or other collecting officer, shall not, thereafter, be liable to suit or motion on said bond for the amount of such claim or demand.

Settlements
with Sheriff.

SEC. 4. That it shall be the duty of the Sheriff, or other collecting officer, to settle with the said Treasurer his accounts with the said county, growing out of the collection and disbursement of the county levies, at such times as the said court shall direct, and for his services the said court shall make to said Treasurer a reasonable compensation.

Approved February 20, 1839.

CHAP. 1267.—AN ACT for the benefit of the Sheriff of Marion county.

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WHEREAS, it is represented to the present General Assembly, that the Clerk of the Marion County Court, in the copy of the commissioner's book of revenue tax for said county, for the year eighteen hundred and thirty eight, charged the aggregate amount of the property listed by William F. and J. Scantland, at fifteen thousand dollars, when the aggregate amount listed with the commissioner was five thousand one hundred dollars, and the copy of the commissioner's book furnished to the Sheriff, contained said last named amount—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriff of Marion county, upon his settlement with the Auditor of Public Accounts, for the revenue tax of said county for the year eighteen hundred and thirty eight, shall receive a credit for the sum of nine dollars and ninety cents, being the excess charged to him on the property of said Scantlands; and also a credit for the sum of ninety five and a half cents, being the amount of his delinquent revenue list for said year, which he failed to return to the Auditor, in the time prescribed by law.

Approved February 20, 1839.

CHAP. 1268.—AN ACT for the benefit of John Weeks, late Sheriff of Caldwell county.

WHEREAS, it is represented to the General Assembly, that John Weeks, late Sheriff of Caldwell county, owing to sickness, and other unavoidable causes, was unable to collect the whole of the county levies, the revenue taxes and militia fines, within the time prescribed by law, but that he has paid the same, and doubts arising whether he has authority to collect such balances—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said John Weeks, late Sheriff of Caldwell county, is hereby authorized to collect the balance of the county levies of said county, which he has failed to collect since the time of his appointment; also, to collect his fee-bills, revenue taxes and militia fines, according to the laws of this State; and that he be allowed the further time of twelve months from and after the passage of this act, to collect the same; any law to the contrary notwithstanding.

Approved February 20, 1839.

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CHAP. 1269.—AN ACT for the relief of the Sheriff of Caldwell county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Sheriff of Caldwell county shall have until the first day of May next, to pay into the Treasury the balance of the revenue of said county, for the year eighteen hundred and thirty eight, upon the securities of said Sheriff agreeing, in the County Court of Caldwell county, on or before their next April term, to the indulgence given by this act; which consent shall be noted of record, by the Clerk of said court, and certified to the Auditor of Public Accounts.

SEC. 2. That in case the said Sheriff, or any one for him, shall fail to pay into the Treasury the balance of the revenue aforesaid, on or before the first day of May next, then, and in that case, the Auditor of Public Accounts shall move against said Sheriff, and his securities, or either or any of them, in the General Court, at its ensuing term, on the third day thereof, without giving notice to all or any of them.

Approved February 20, 1839.

CHAP. 1270.—AN ACT for the benefit of John M. Emerson, and his securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John M. Emerson, late Sheriff of Cumberland county, and his securities, shall be and they are hereby released from the damages recovered against them, by the Commonwealth of Kentucky, at the August term, eighteen hundred and thirty eight, of the General Court, on his default in the payment of the revenue of said county, for the year eighteen hundred and thirty six, upon their paying the amount of said default, as ascertained by the judgment of said court.

Approved February 20, 1839.

CHAP. 1271.—AN ACT for the benefit of Austin S. Tyler, Sheriff of Hickman county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby required to issue a warrant on the Treasury, in favor of Austin S. Tyler, Sheriff of Hickman county, for forty dollars, sixty eight cents, the amount paid by him into the Treasury, by mistake, on account of the revenue tax for the year

eighteen hundred and thirty eight; he being entitled to a credit for that sum, for exonerations, which were improperly certified by the court of said county, as delinquencies, and therefore not allowed by said Auditor, in the settlement of said Sheriff's account.

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Approved February 20, 1839.

CHAP. 1272.—AN ACT for the benefit of the widow and heirs of Stephen Gilbert, deceased.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the administrators and widow of Stephen Gilbert, deceased, to file their bill in chancery in the Spencer Circuit Court, making the heirs of the said deceased, defendants thereto; setting forth therein, that the personal estate, except the negroes, belonging to the estate of said deceased, is insufficient to pay his debts; and also to set out the amount of said personal estate, and the manner in which it has been disbursed, and the amount of debts remaining unpaid; and also set forth and show the quantity of the land that has descended to the widow and heirs of said deceased; and also to alledge that it will be to the advantage and interest of the widow and heirs, to reserve the negroes and sell the land that has descended, or so much thereof as will be sufficient to pay and satisfy the debts aforesaid.

Real estate
authorised to
be sold for the
pay't of debts.

SEC. 2. That upon the return of process executed, said court shall appoint a guardian *ad litem*, for the infant heirs of said decedent, and also a commissioner, to state the accounts of said administrators, and to report the amount of the outstanding debts, and the value of the land proposed to be sold, and the situation of the other estate of said decedent; and if the Chancellor shall be of opinion that it would advance the interest of the heirs to reserve said slaves, and sell all or any part of the land aforesaid, for the purpose of payment of said debts, he may, and is hereby authorized to decree a sale thereof, on such terms and conditions as to said court seem just and equitable; and may appoint a commissioner to execute said decree, by a sale and conveyance of the said land, to the purchaser or purchasers: provided, that Eliza Ann Gilbert, the widow of the said decedent, shall file in the suit, before the decree shall be rendered, an executed release of her dower in the land aforesaid.

Proceedings
in court.

SEC. 3. That said court, upon rendering such decree, shall require bond with approved security, or securities, from the administrators, in such penalty as said court may fix, with condition that they will well and truly apply the proceeds of the sale of said land to the payment of the outstanding debts

Admr. to
give bond.

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of the said deceased; and make a full and true report thereof to said court.

Dower.

SEC. 4. That the widow of said deceased may be allowed, in lieu of her dower in the land, a reasonable compensation, out of the proceeds of the sale thereof.

SEC. 5. That the court may render a decree for the sale aforesaid, at the first term after filing the said bill, and filing of answers and report aforesaid: provided, said court shall consider it necessary and prudent.

Approved February 20, 1839.

CHAP. 1273.—AN ACT to amend an act, entitled, an act to incorporate the Lebanon and Marion Turnpike Road Company, approved Feb. 17, 1836.

WHEREAS, it is represented to the present Legislature of Kentucky, that in February, eighteen hundred and thirty six, there was a charter obtained, under the style of the Lebanon and Marion Turnpike Road Company, and it is proposed to amend the charter to read as follows:

Meeting of
stockholders to
be called.

May make a
dirt turnpike.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the commissioners in Lebanon and Marion Turnpike Road Company to call a meeting of the subscribers of stock in said Company, whenever two hundred shares of stock shall have been subscribed, and choose a President and five Managers of said Company; and the number shall be reduced to a President and five Managers; and they shall have the right to make it a dirt turnpike, with the consent of the Board of Internal Improvement, and receive half toll, until they shall get a sufficient amount of stock subscribed to make the stone or artificial part thereof.

Approved February 20, 1839.

CHAP. 1274.—AN ACT to close up the old road over Muldrow's Hill.

Road may
be closed up.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Board of Internal Improvement are hereby authorized to cause the old road from Daniel Singleton's, in Marion county, over Muldrow's Hill, to James Short's, in the valley of Pittman's creek, on the road leading from Lexington to Nashville, to be discontinued and closed up, and may cause any of their Engineers or other persons to close up said road.

SEC. 2. That after the Board of Internal Improvement shall have caused said old road to be closed up, it shall not be law-

ful for any person or persons to travel the same, or open it again: and any person guilty of a violation of the provisions of this act, shall be liable to a fine of not less than five, nor more than twenty dollars, recoverable before any Justice of the Peace, in the name of the Commonwealth of Kentucky, the one half of which the informer shall be entitled to; and on any judgment under this act, the Justice may may issue a *casa* or *fi. fa.*, as in other cases of fine.

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SEC. 3. That the County Courts of Green and Marion shall not have power to open any county road passing over said hill, for the purpose of avoiding the turnpike gate on the turnpike over Muldrow's Hill, within two miles of said gate, on either side thereof; or for any other purposes of public travel.

County c't'a.
not to open a
road to avoid
the toll gate.

Approved February 20, 1839.

CHAP. 1275.—AN ACT for the benefit of Tabitha Hix.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that Tabitha Hix is a poor person, residing in Pulaski county; that she is aged and helpless, so much so, as to be entirely incapable of labor; and that the County Court of said county refuse to provide for her support, except at the poor house of said county, to which place the said Tabitha is unwilling to be removed; but desires to remain with her friends and relations—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the County Court of Pulaski county shall, and they are hereby required to provide for the support and maintenance of said Tabitha, a sum not less than fifty dollars annually, and such additional sum as may be necessary for her comfortable support and maintenance; and they shall allow her to be kept and provided for by her friends, who may be willing to undertake to keep her.

County c'tt.
to provide for
her support.

SEC. 2. That the said court shall also; for the present year, make a like allowance for her support, to be paid out of the depositum of the county levy, if there shall be so much; if not, they shall cause it to be allowed and levied at the next court of claims for said county.

Approved February 20, 1839.

CHAP. 1276.—AN ACT to amend an act to incorporate the Hopkinsville and Clarksville Turnpike Road Company.

WHEREAS, it is represented to the present General Assembly, that the stock in the turnpike road from Hopkinsville to Clarks-

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State to take
two thirds of
the stock.

ville has not been taken, and on account of the sparseness of the population will not be taken under the charter heretofore granted and the existing laws—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That when individuals shall subscribe and take five hundred shares of stock in said road, the Board of Internal Improvement shall subscribe and take one thousand shares in behalf of the Commonwealth; and when the Board of Internal Improvement shall be satisfied that one hundred shares has been paid in, they shall, in like manner, pay two hundred shares; and, thereafter, the Board of Internal Improvement shall, in like manner as calls are made upon the individual stockholders, and the amount absolutely paid, pay two dollars for one so called in and paid by individual stockholders, until the whole amount of one thousand shares shall be fully paid.

Approved February 20, 1899.

CHAP. 1277.—AN ACT to repeat in part “an act to change the bounds of the seventh division of the Kentucky Militia, and for other purposes.”

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of an act, entitled “an act to change the bounds of the seventh division of the Kentucky militia, and for other purposes,” as provides that the thirty sixth regiment, as now bounded, shall be attached to the seventh brigade and be included in the bounds of the seventh division, lately commanded by Maj. General Thompson Ward, and that said Ward shall hold and retain his office of Major General from and after the date of his commission, shall be, and is hereby, repealed.

Approved February 20, 1899.

CHAP. 1278.—AN ACT to increase the powers of the Trustees of Barbourville

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That for the purpose of enabling the Trustees of Barbourville to drain the ponds within the town and its vicinity, they are hereby vested with power and authority to cause the lots within said town, and the lands within one half mile of the limits of the town to be assessed, and to levy and collect an ad valorem tax of twenty five cents on the one hundred dollars, and a tithe tax of one dollar and fifty cents on those residing within the town, and the limits of the half mile aforesaid, and apply the proceeds to the draining the ponds, and to continue the tax, from year to year, until the object shall be accomplished.

Approved February 20, 1899.

CHAP. 1279.—AN ACT to amend the several acts concerning the towns of Paris and Elizabethtown.

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Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That so much of the county of Bourbon as is contained within the present bounds of the town of Paris, as defined in the plan of said town, recorded in the Clerk's office of the County Court of said county, shall be, and is hereby, declared to be the town of Paris; and the Board of Trustees thereof, as hereinafter constituted as such, and by that name shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, in all matters whatever, and in all courts and places.

Boundary of
of Paris.
(Corporate
powers, &c.

Sec. 2. That the fiscal, prudential and municipal concerns of said town, with the Government and control thereof, shall be vested in seven Trustees, who shall be styled the Board of Trustees for the town of Paris, all of whom shall be elected on the first Monday of March in every year, and shall hold their offices for one year, and until their successors shall be duly elected. The said Trustees shall be freeholders in said town, and shall have lived therein one year at least next preceding their election. The said Trustees shall, after their election, choose a Chairman from among themselves, who shall preside at their meetings, and sign their orders; and, in case of his absence at any meeting, a chairman, for the time being, shall be chosen.

Name and
style. When
trustees are to
be elected—
term of office—
their qualification,
&c.

Sec. 3. That every free white male inhabitant, over twenty one years of age, and who shall have resided in said town for one year next preceding the election, shall have a right to vote for Trustees of said town. The Sheriff of Bourbon county shall attend at and conduct the election of said Trustees; and the seven having the highest number of legal votes shall be the Trustees for said town, who shall be informed of their election by said Sheriff. It shall also be the duty of the Sheriff to return the names of the Trustees elected to the Clerk of the Board of Trustees of said town, within ten days after said election, who shall enter their names on the record book of said Board. On the death, removal, resignation, or refusal to act, by any Trustee, the said Board may appoint a day, and hold an election for a Trustee to fill such vacancy. Three months' absence from the town, or refusal to act, shall vacate the office of a Trustee; and the Board may enter a resolution to that effect, and order an election to fill such vacancy, as above provided for. The said Trustees shall appoint a Clerk, and shall keep a book in which all their orders shall be recorded: a copy of any order from the record, attested by the Clerk, shall be evidence of such order. And the said Clerk shall preserve the books and papers of the Trustees deposited with him, and deliver them over to his successor. He shall

Who may
vote for trustees
and how elections
are to be
conducted and
made known.

How vacancies
may be
filled.

Clerk to be
appointed, and
his duties.

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preserve the Assessor's book, and deliver a copy thereof to the Collector of the Board when required.

Assessor to be appointed & his duty.

Penalty on persons refusing to give list.

What property subject to taxation.

Rate of taxes.

When assessors book to be returned.

Treasurer to be appointed who shall give bond.

His duties.

Collector to be appointed—his duties.

Collector to give bond.

SEC. 4. That the Board of Trustees shall appoint, annually, from among the citizens, an Assessor, who shall call on the persons in said town subject to pay tax, and take a true list of their taxable property, with the value thereof. If any person shall refuse to give such list, when called upon, or be absent, the Assessor shall make out a list from the best information that he can obtain; and any person refusing to give such list shall be subject to a fine, to be ordained by the Board of Trustees, not exceeding twenty dollars. The property subject to taxation in said town shall be the same now subject by existing laws. The said Assessor shall also return a list of all the free male inhabitants of said town, over the age of twenty one years, to said Trustees, who shall have power to levy a poll tax, not exceeding one dollar on each of such male inhabitants. Any person feeling himself or herself aggrieved by the valuation of the Assessor may apply to the Board of Trustees, who shall have power to correct any mistake or error, and have such correction entered on their book. The said Assessor shall return his book, made out in proper form, on or before the first day of June, annually, unless another day shall be fixed by the Trustees.

SEC. 5. That the Board of Trustees shall appoint a Treasurer, and may require of him bond and security, or securities, in such penalty as they may fix, payable to the Board of Trustees, conditioned for the faithful discharge of his duties, which may be sued on in any Circuit Court for a breach thereof. The Treasurer shall take receipts for all money paid by, and give receipts for all money paid to him. He shall keep a fair record of all money received or paid out by him, and shall pay all appropriations made by the Board, and certified by the Clerk thereof; and shall keep a record of the same; and shall pay no money except under an appropriation of the Board, certified in manner aforesaid; and shall preserve and file all orders paid by him. His accounts and books shall be at all times subject to the inspection of said Trustees, or any one of them. He shall annually, on or before the tenth day of January, in every year, report to the Board of Trustees a true list of moneys received and paid out by him; and shall render such account at any other time, when required by the Trustees.

SEC. 6. That the Board of Trustees shall appoint a Collector of the town tax, whose duty it shall be to collect from the citizens the tax assessed on them respectively, by the said Board, and shall pay over the same to the Treasurer of said Board, on or before the first day of December, in every year, unless the Trustees shall fix some other day; and shall pay over to the Treasurer, or to the order of said Trustees, any money in his hands, as Collector, whenever required by said Board. The Trustees shall take bond with security, or securities, from said Collector, payable to said Board, in a penalty

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at least double the amount of tax to be collected by him, conditioned for the faithful performance of his duties; which bond may be sued on in the Circuit Court of any county where the said Collector, or his security or securities, may be. The said Collector shall have power to distrain the property of any person who fails or refuses to pay his tax, after having been called on for the same, and sell such property, or so much thereof as may be necessary to make the tax due from such person, together with the same costs as is allowed in cases of distress for county levy, after having advertised the time and place of said sale, for ten days at least, at two public places in said town.

May distrain
and sell prop-
erty for taxes.

SEC. 7. That the Board of Trustees may appoint a Marshal, whose duty it shall be to serve all notices, and execute the orders of said Board. He shall have power to serve warrants, issued from a Justice of the Peace, and summon witnesses in cases where said Board is plaintiff, and to levy executions in such cases, and to sell property in the same manner that Constables can by law. He shall have power to remove, and cause to be removed, all nuisances, according to the rules, regulations, and by-laws of the Board of Trustees. He shall have power, and it shall be his duty, to suppress riots and breaches of the peace, happening in his presence; and he shall have power and authority to summon a sufficient number of persons to aid him in the execution of any duty required of him by law. The Board of Trustees shall have power to make such allowance, by way of salary, to any of the officers appointed by them, as they may deem right and proper.

Marshal may
be appointed to
his duties and
powers.

SEC. 8. That a majority of the Trustees shall be a quorum to do business. The said Trustees shall have full power to make by-laws, rules, and regulations, not inconsistent with the laws and constitution of the State, for the government and control of said town, and of the market, and for cleansing and regulating the streets; and may ordain adequate fines to enforce their by-laws, rules, and regulations. They shall have power to purchase ground, for the use of said town, for a common, and for other necessary purposes, and to appoint persons to take charge of, and protect, the same. They shall have power to purchase fire engines, and other implements for extinguishing fire; and to build engine houses, and to appoint persons to take care of them, and preserve the originals. They shall have the power to assess, levy, and collect a tax, not exceeding the sum of one thousand dollars for each year. They shall have the power to tax all theatrical performers, and exhibitions of all kinds, within the bounds of said town, and within one half mile thereof, any sum not exceeding twenty dollars for a day or night; and a failure of the manager, keeper, or owner, of any exhibition or any performer whatever, to pay the tax on him or them imposed by the Trustees, they may recover the tax imposed by them, by war-

By-laws &c.
may be passed.

May purchase
and hold real
estate for cer-
tain purposes.

Taxes to be
levied.

May tax
shows, &c.

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May erect a
work house, ap-
point watch-
men, &c. and
punish slaves
for offences.

Penalty for
indecent beha-
viour.

Fines impos-
ed on minors,
how collected.

Power of
trustees in rela-
tion to grading
and paving str.

May cause
lots to be sold
for cost paving
&c. may convey
to purchaser.

rant, before a Justice of the Peace, to which there shall be no replevy. They shall have power to erect a work house, and a watch house, and to appoint superintendants therefor. They shall have power to appoint one or more watchmen, to watch and patrol said town, at the expense of the same. They shall have power to inflict punishment on slaves, by stripes not exceeding twenty, for any offence committed in said town by disorderly or riotous behaviour, or by gaming, drunkenness, or other disorderly conduct, contrary to the by-laws of said town. They shall have power and authority to cause the owners of private alleys, stables, lots, and pens, to have the same cleaned, and to enforce the said authority by ordaining adequate fines. They shall have power to ordain fines on all persons who shall be guilty of indecent or boisterous conduct, so as to disturb the peace and quietude of the town. They shall have power to ordain a penalty on persons who shall be guilty of running horses within the limits of said town, blowing horns, or crying aloud, in such manner as to disturb the peace and quiet of the town, or the shooting a gun, or pistol in said town, any sum not exceeding twenty dollars; and where any of the offences enumerated in this section, may be committed by minors, or apprentices, the father of such minor, or master of such apprentice, shall be liable for the fines imposed on such minor, or apprentice: provided that it be made appear that such father, or master, countenanced or connived at the commission of such offence by his child or apprentice, and the same may be recovered from him, before any tribunal having jurisdiction of like sums.

Sec. 9. That the Trustees shall have power and authority to enter any order or orders requiring the owner or owners of any lot, or fraction of lot, in said town, fronting any street, alley, or side-walk, to grade and pave said alley and side-walk and said street to the middle thereof, at his, her or their own cost and expense; all such grading and paving, in the manner, and in such time, as the Trustees shall order and direct. Every person, so ordered to grade and pave, shall have reasonable notice of such order, by being served with a copy of the same, if a resident of Bourbon county, if not, then notice shall be served on the occupier of such lot; but if there be no such owner or occupier, in said county, no notice shall be necessary. If any owner or owners of a lot or lots, adjoining any street, alley, or side walk, ordered to be graded and paved, as above provided for, shall fail to commence such work at the time directed by said Trustees, or shall fail to complete the same within the time required by them, the said Trustees shall have power to cause such grading and paving to be done according to their order, at the cost and expense of the town, and may order said lot or lots, or so much thereof as may be necessary, to be sold to the highest bidder, to pay the cost and expense of such grading and paving; the time and place of such sale to be advertised at the court house door, and in some other

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public place in said town, and in a newspaper, if one be published there, for three weeks preceding the sale thereof; and the Trustees of said town, or a majority of them, shall make a deed to the purchaser of said lot or lots, which shall pass the title of the owner or owners, without any responsibility on said Trustees or said town; but the owner or owners shall have a right to redeem any lot sold under this act, any time within two years after said sale, if a resident of the State, by paying to the purchaser, his or her heirs, executors, administrators, or assigns, the amount of the purchase money, with twelve per cent. per annum interest thereon, from the date of said purchase; or they may deposit the sum necessary for that purpose, with the clerk of said Board of Trustees, who shall receive the same, and execute his receipt therefor, which shall be as effectual for the purposes of redemption, as if paid to the purchaser; and if the owner or owners are non-residents, they shall have the right to redeem his, her or their lot, so sold, at any time within three years, on the same terms as provided for in the case of residents: provided however, that in no case shall the interest of an infant or infants in any lot be so sold. The Trustees shall cause to be entered on their book the sale of any lot sold by their order under this act, and shall note the fact of the deed having been made, in pursuance thereof; in all cases where infants are the owners of a lot adjoining any street, alley, or side-walk, ordered to be graded and paved, notice of such order shall be served on such infant or infants, if within the State, and also on his or her guardian, if any they may have.

How lots sold
for cost paving
may be redeem-
ed.

Reservation
in favor of in-
fants.

Sec. 10. That in cases in which the cost of such grading and paving shall remain unpaid by the owner of any such lot, and the Trustees shall not cause the same to be sold, as above authorized to do, the same may, with costs, be recovered by action of debt, in the name of the Trustees, against the owner, in the Circuit Court, when the amount so due shall exceed fifty dollars, and by a warrant before a Justice of the Peace when it shall be that sum and under; or the said Trustees may, when any sum expended in grading and paving such lot remains unpaid, and they are hereby authorized to, institute a suit in chancery, in the Circuit Court of Bourbon, against the owner of said lot, and any person indebted to him for rent thereof, setting forth the nature and amount of said debt, and paying the sum so due for rent, or so much thereof as may be necessary to discharge the amount due by said owner, may be applied to that purpose and to the costs of prosecuting said suit; and in all such cases, if the debt, so due, shall not be under five pounds, the Circuit Court of said is hereby authorized and directed to entertain jurisdiction thereof; and upon the allegation of the bill being sustained by satisfactory proof, or upon taking the bill as confessed, to enter a decree against the person so indebted to such owner, to the amount he may be so indebted, with costs, or so much thereof as may be necessary for the purposes afore-

Cost of paving
may be recover'd
by suit in cir-
cuit court, or
before justices
of the peace in
certain cases.

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said; and in all such cases the court, in term time, or, in vacations, the Justices appointed for that purpose, or the Judge of said court, may grant an injunction or restraining order inhibiting the person so indebted from paying the same to said owner, until the further order of the court thereon; and when the amount so due shall not exceed five pounds, the said Trustees may and they are hereby authorized to institute a suit in chancery, before a Justice of the Peace, against the owner of said lot, or any person so indebted to him for rent, to recover the amount due as aforesaid; and any Justice of the Peace for Bourbon county is hereby authorized and directed to entertain jurisdiction thereof, and to proceed, in all respects, as is now authorized in cases not exceeding five pounds, where an execution has been returned "no property found" by the proper officer.

How cost of
paving already
done may be
collected.

Trustees may
order paving,
&c. to be done
—manner of
collecting costs
thereof.

Sec. 11. That the Trustees aforesaid may, and they are hereby authorized to enforce, payment of all and every sum and sums of money due by the owner of any such lot or lots, for grading and paving, which has been already performed, on any street, alley, or side-walk; fronting said lot or lots, under any former law on the subject; and, to effectuate that object, shall be, and are hereby, authorized to pursue any of the remedies pointed out in this act to enforce payment of such improvement heretofore done. They are also empowered to enter any order or orders requiring the owner or owners, of any lot or lots in said town, adjoining any street, alley, or side-walk, to keep said alley, side-walk and street, to the middle thereof in good repair; and upon the failure of such owner or owners to comply with said order, notice of the same having been first served, in the manner herein prescribed in relation to grading and paving, the said Trustees shall cause such repairs to be made at the cost of the town aforesaid, and shall, thereupon, be authorized to enforce the payment thereof, to them, by the owner or owners, in any of the modes herein pointed out for enforcing payment for sums due for grading and paving streets, alleys and side walks.

May cause
wells &c. to be
sunk, and may
impose fines on
persons for fail-
ing to comply
with orders for
paving st's &c.

Proviso.

Sec. 12. That said Trustees shall have power, and they are hereby vested with power and authority, to cause wells and cisterns to be sunk, and pumps to be erected, and cause the same to be kept in repair; and to purchase springs and wells, and to cause them also to be kept in repair, for public use, and to keep them under such regulations as they may deem to be most proper. They may, also, from time to time, impose such fines as they may determine upon, on persons failing to comply with any order or orders entered by them, on the subject of grading, paving, or keeping in repair, the streets, alleys, or side-walks, for the enforcement of the same: provided, however, that in no case shall such fine exceed double the cost of such grading, paving or repairing; and they may, also, impose fines on such as may violate any order entered by them for the preservation or management of such

wells, springs, or cisterns, not to exceed ten dollars for any one offence.

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Sec. 13. That the Trustees may sue, by warrant from a Justice of the Peace, for any fine or fines imposed by them under this act, where the amount is not more than fifty dollars, or in the Circuit Court, when the amount is over that sum, and proceed, in both instances, as in cases of like amount for debt, to recover said fines, in addition to other remedies and modes given in this act: and all fines imposed and recovered by the said Trustees, under ordinances and by-laws enacted by them under the authority of this act, shall be for the benefit of said town, and are hereby authorized and required to be paid over to the said Trustees or their Treasurer.

How fines may be recovered & applied

Sec. 14. That where the owner or owners of any lot or lots in said town shall, unreasonably, delay the payment of the tax due on such lot or lots, after having been first called on by the collector for the same, if a resident of the county, if not, then on his, her or their agent or tenant, if any such be known to said collector, and if he, she, or they, have no other property out of which the said tax can be made, the said Trustees may, and they are hereby authorized, to enforce the payment of the same, with twelve per cent. per annum interest thereon, together with costs, in any of the modes herein pointed out for enforcing payment for sums due for grading and paving streets, alleys and side-walks.

Manner of selling property for taxes by the collector.

Sec. 15. That it shall be the duty of the Marshal of said town to give information to said Trustees of any violation, either of their by-laws or this act, which may come to his knowledge.

Marshal to give notice of violation of by-laws, &c.

Sec. 16. That it shall be the duty of said Trustees to settle and publish, in the month of February, in every year, a statement of their accounts, showing the amount received and paid out by them during the preceding year.

Trustees to publish statement of ac'ts annually.

Sec. 17. That no contract or order of the present Board of Trustees shall be impaired or annulled by this act, but the same shall remain in full force; and the books and papers held by the present board shall be delivered over to their successors. This act shall take effect and be in force from and after the first day of March next; and all laws coming within the purview of this act shall be and the same are hereby repealed.

Contracts of present board not to be impaired by this act.

When to take effect.

Sec. 18. That so much of the county of Hardin as is contained within the present bounds of the town of Elizabethtown, as defined in the last plan of said town, recorded in the Clerk's office of the County Court of said county, shall be and the same is hereby declared to be the town of Elizabethtown, and, as such, shall have all the powers and privileges granted in this act, except the ninth, tenth, and eleventh sections thereof, and all parts of the other sections referring to the objects and authorities contained in said sections.

This act made applicable to Elizabethtown, with certain exceptions.

Approved February 20, 1839.

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CHAP. 1280.—AN ACT for the benefit of John Steele.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John Steele, of Woodford county, Kentucky, and his securities, be, and they are hereby, released from all liabilities and penalties on a bond executed to the Commonwealth of Kentucky on the fifteenth day of May, eighteen hundred and eighteen, for the safe keeping and delivery of fifty stand of arms and accoutrements to the Quarter Master General.

Approved February 20, 1839.

CHAP. 1281.—AN ACT requiring a special County Court to be held in Shelby county for the purpose of swearing in deputy Sheriffs.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That any three or more of the Justices of the Peace for Shelby county shall be, and they are hereby, authorized and empowered to hold a special court, at the court house, in Shelbyville, on the twenty fifth day of February, eighteen hundred and thirty nine, for the purpose of administering the oaths of office to the deputy Sheriffs for said county.

SEC. 2. That the official acts of said deputy Sheriffs shall be as legal as if they had taken the oaths of office at the regular monthly sitting of said court.

Approved February 20, 1839.

CHAP. 1282.—AN ACT for the benefit of Fountain Cunningham.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Fountain Cunningham and his securities be and they are hereby released from all liability and penalties on a bond executed to the Commonwealth of Kentucky for the safe keeping and return of sixty stand of arms, drawn from the public arsenal, provided the said Cunningham shall deliver to the Quarter Master General, in the town of Frankfort, by the first day of May next, forty stand of said arms, and as many more as the said Cunningham can collect.

Approved February 20, 1839.

CHAP. 1283.—AN ACT to change the place of voting in the Scaffle Cane Precinct, in Rockcastle county.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act the place of voting in the Scaffle Cane precinct, in Rockcastle county, shall be at the house of Capt. John Haley, in said precinct, where Nicholas Ballard formerly resided; at which place elections shall be holden hereafter, agreeably to the laws, rules and regulations, which have heretofore governed elections at said precinct.

Approved February 20, 1839.

CHAP. 1284.—AN ACT to establish an election Precinct in Christian county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That an election precinct be, and the same is hereby, established at the house of William Mitchusson, in Christian county.

SEC. 2. That the County Court of Christian county, is hereby authorized to appoint Judges and a Clerk to superintend all elections held at said precinct.

Approved February 20, 1839.

CHAP. 1285.—AN ACT to abolish the election Precinct, at Peter Miller's, on Knob Creek, in Bullitt county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the election precinct, at Peter Miller's, on Knob creek, in Bullitt county, be, and the same is hereby, abolished.

Approved February 20, 1839.

CHAP. 1286.—AN ACT for the divorce of Rebecca Hutchinson.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Rebecca Hutchinson and her husband, Alexander Hutchinson, be, and the same is hereby, forever dissolved, so

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far as relates to the said Rebecca, and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Rebecca Dawson.

Approved February 20, 1839.

CHAP. 1287.—AN ACT for the benefit of Dawson Elliott, of Madison county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Dawson Elliott, Constable of Madison county, have further time until the next session of the Court of Assessment of the thirty fifth regiment of Kentucky Militia, to return his delinquent list of muster fines for the years eighteen hundred and thirty five, and eighteen hundred and thirty six.

Approved February 20, 1839.

CHAP. 1288.—AN ACT for the benefit of the Clerks and Sheriffs of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Sheriffs and Clerks who attended at Frankfort to compare the polls, under, and by virtue of, an act, entitled, an act to take the sense of the good people of this Commonwealth, as to the expediency and propriety of calling a Convention, to revise the constitution of this State, approved December twenty first, eighteen hundred and thirty seven, shall be allowed the same compensation that is now allowed to Sheriffs for attending to compare the votes for Governor: provided, however, that the compensation hereby allowed shall not be paid to any Sheriff or Clerk who did not personally perform the service aforesaid: and provided, further, that the compensation hereby allowed shall not be paid to any Sheriff or Clerk, until he or they shall present to the Treasurer, the certificate of the Secretary of State, or file an affidavit of himself or some other creditable person, that such Sheriff or Clerk did attend, personally, and perform the service aforesaid.

Approved February 20, 1839.

CHAP. 1289.—AN ACT for the benefit of Enoch Yantis.

WHEREAS, it is represented to the present General Assembly, that the house of Enoch Yantis, a Justice of the Peace for

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Russell county, was consumed by fire in the spring of the year eighteen hundred and thirty eight, together with all his effects therein, including his copy of Morehead and Brown's Digest of the Laws of Kentucky, and the acts passed since the publication of said Digest, whereby the said Enoch Yantis is left without the ordinary means of discharging his duty as a civil officer of the State—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Secretary of State shall send to the county of Russell, at the time of distributing the Acts and Journals of the present session, one additional copy of Morehead and Brown's Digest; also, a copy of the Session Acts passed at each session since the publication of said Digest, for the use of said Yantis, so long as he continues in office; and when his office is vacated, to be returned to the Clerk's office of the County Court of said county, to be delivered to his successor in office, according to the existing laws upon the subject of distributing the laws of this Commonwealth.

Secretary of State to furnish him Morehead & Brown's digest, &c.

Approved February 20, 1839.

CHAP. 1290.—AN ACT to incorporate the Town of Wyoming, in the county of Bath.

Sec. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the free white male inhabitants over the age of twenty one years, who are residents of the town of Wyoming, in the county of Bath, and the proprietors of said town, may, and they are hereby authorized to meet at Isaac Trumbo's residence, in said town, on the first Monday in May next, and on the same day in each year thereafter, and proceed to the election of five Trustees, who shall, at the time of their election, be over the age of twenty one years, and shall be actual residents of said town; and said election shall be held under the control and management of two Justices of the Peace for said county; and on the close of said election, they are hereby required to give each of said Trustees, so elected, a certificate thereof; and said Trustees shall hold their offices one year, and until their successors shall be duly appointed.

When, where and how trustees may be elected, term of office, &c.

Sec. 2. That said Trustees shall have power and authority to appoint a Clerk for the Board, whose duty it shall be to record all proceedings, by-laws, ordinances, &c. of said Board, in a book to be procured for that purpose, and file and preserve all papers and documents belonging to said Board.

Clerk to be appointed, &c.

Sec. 3. That the said Board shall have power and authority to appoint a commissioner to assess the real estate in said town, with a view to the assessment and collection of a town tax; and after said assessment is made, and a return thereof to said

Assessor to be appointed & his duties.

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Rate of taxes.

Collector to
be appointed &
his duty.To give bond
& its condition.May be sued
for breach there
of.May pass by-
laws, &c.

Board, they shall proceed to levy an *ad valorem* tax thereon, not exceeding fifty cents on each hundred dollars valuation set on said property; and they shall also have authority to appoint a Town Collector, whose duty it shall be to proceed to collect said tax, so assessed, either by distress or otherwise, from the owners of property so assessed; and said Board shall require said Collector to give bond, with one or more sufficient sureties, in sufficient penalty, with condition for the faithful collection; and to account for and pay over all sum or sums of money to said Board, or their Treasurer, who they may appoint; and for a breach of said bond, suit may be brought thereon, in any court of record within this Commonwealth, having jurisdiction thereof, in the same manner that suits are brought on bonds of public officers; and all executions that may issue on any judgment that may at any time be recovered against said Collector, or his securities, the Clerk of the court shall endorse thereon, that no security of any kind shall be taken.

SEC. 4. That said Board shall have power to pass all by-laws and ordinances that may be necessary to the government, good order and well being of said town; and shall be authorized to expend, by contract, all sums of money collected from said town, for the improvement thereof: provided, that said by-laws and ordinances shall not be in opposition to the constitution and laws of the United States, and the constitution and laws of this State.

Approved February 20, 1839.

CHAP. 1291.—AN ACT for the benefit of George W. Williams.

WHEREAS, it is represented to the General Assembly, that George W. Williams, of Bourbon county, did, on the second day of June, eighteen hundred and twenty seven, draw from the Public Arsenal, sixty stand of arms, and accoutrements for the same, and executed his bond to the Commonwealth, for the safe keeping and return of said arms: and whereas, a portion of said arms have been carried off by persons emigrating to other States, and some misplaced or lost by those who had them in charge, and some consumed by fire: and whereas, the said George W. Williams has succeeded in collecting together about thirty one stand, or more, and a part of the accoutrements—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky; That the said Williams, delivering thirty one stand of said arms, or more, and as many of the accoutrements as he may collect, to the Quarter Master General, in the town of Frankfort, on or before the first day of May next, the said

bond shall be cancelled, and the said Williams and his securities be, and they are hereby, released from all liabilities and penalties on said bond.

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Approved February 20, 1839.

CHAP. 1292.—AN ACT for the benefit of James W. Finnie,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James W. Finnie have a credit for thirty muskets, bayonets, and cartridge boxes, on his bond, now on file in the office of the Quarter Master General, with Samuel Casey, Henry Payne, &c. as his securities, executed by them, for the safe keeping and return of sixty stand of Public Arms, which said Finnie drew from the Public Arsenal: provided, said Finnie shall, by himself or agent, on or before the 20th day of June, eighteen hundred and thirty nine, deliver to the said Quarter Master General, in the town of Frankfort, the remaining thirty stand of arms, at which time said bond shall be cancelled.

Approved February 20, 1839.

CHAP. 1293.—AN ACT concerning the towns of Warsaw and Monticello.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town of Warsaw, as now established within the following bounds, to wit: Beginning at a stake on the Ohio river, a corner of Belt Brashears; thence South, thirty degrees East, fifty four poles; thence North, fifty four degrees East, sixty six poles; thence South, thirty one degrees East, thirty one poles; thence North, fifty four degrees East, fifty three poles; thence North, thirty six degrees West, thirty one poles; thence North, fifty four degrees East, twenty four poles; thence North, thirty six degrees West, fifty four poles; thence South, fifty four degrees West, one hundred and forty poles, binding on the river to the beginning; shall be, and the same is hereby declared to be the Town of Warsaw; and as such, by that name, shall be capable in law of contracting and being contracted with, of suing and being sued, of answering and being answered, in all matters whatsoever, and in all courts and places.

Boundary of Warsaw.

Corporate powers.

SEC. 2. That the fiscal, prudential and municipal concerns of said town, with the government and control thereof, shall be vested in seven Trustees, who shall be elected on the first Monday of March, annually, under the control of the Chair-

Seven trustees to be elected annually, &c.

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To take an oath, and form thereof.

Their qualifications.

Chairman to be elected.

Taxes—rate of.

Trustees to cause streets, &c. to be graded, &c.

May pass by-laws, &c.

Assessor to be appointed, who shall take an oath & give bond.

His duty.

man and Clerk, or any two of the acting Trustees. Said Trustees shall hold their offices for one year, or until their successors shall have been qualified; and in case of any vacancy, it may be filled by the Board, at any regular meeting. Before entering upon the duties of his office, each member of the Board shall appear before some Justice of the Peace of the county, and make oath that he will perform the duties of his office to the best of his skill; and a certificate to that effect must appear on the records of the Board. No one shall be capable of holding the office of Trustee, or be considered a legal voter, unless satisfactory evidence be produced to the conductors of the election, that he has paid the town tax, collectable in the preceding year; and shall, at the time of their election and voting, actually reside in the town.

SEC. 3. That said Trustees may appoint one of their body as Chairman, who shall preside over the meetings, keep order, &c., sign the record of each meeting, and may call a meeting of the Board at any time, and shall continue in office at the discretion of the Trustees. They may appoint a Clerk, who shall perform the duties imposed by the Board, and remain in office at their discretion. Said Trustees may have regular stated meetings, as often as they may deem necessary; and a majority must be present, and concur in all business.

SEC. 4. Said Trustees shall have power to assess, annually, a poll tax, on the legal tithables of said town, not exceeding one dollar a head, and levy an *ad valorem* tax on the real and personal estate within said town, that is now taxed by the revenue laws of this Commonwealth, not to exceed twenty cents on each one hundred dollars worth of property. They shall have power to contract for the grading and improvement of the streets and alleys, and the paving of the side walks of said town; to levy and collect from the owner and manager of all exhibitions of animals or shows, of all and every description, that shall be exhibited within the limits of said town, not to exceed the sum of twenty dollars for each exhibition. They shall have power to pass by-laws and ordinances for the enforcement of the powers granted by this act, by inflicting adequate penalties for the enforcement of the same, and to fix the fees of all officers under their appointment.

SEC. 5. Said Trustees shall have power to appoint a suitable person as a commissioner, to take in a list of taxable property, who shall, before he enters upon the duties of his office, make oath before the Trustees, that he will faithfully and truly discharge the duties of his said office, according to the best of his knowledge and ability; who shall proceed to the performance of his duty, and make return under the direction of the Board; and if any person or persons shall fail or refuse to give in a list of his or her property to said commissioner, together with the valuation, under oath, it shall be the duty of said commissioner to report the fact to the Trustees, together with the amount of property (as near as he can ascertain,) owned by such indi-

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vidual in said town; and thereupon the said Trustees shall proceed, upon the report of said commissioner, and such other information as they can obtain, to fix the amount with which such individual may be properly chargeable, and collect the same, in the same manner as if the list had been regularly given in to said commissioner.

SEC. 6. That the said Trustees shall, as soon as practicable, after the said commissioner's list shall be returned, as aforesaid, appoint a Collector, to collect the said tax, who shall give bond and surety, payable to the Trustees, in a penalty of double the amount of taxes to be collected, conditioned for the prompt collection and payment of said tax to the said Trustees, within such time as they may direct; during which period of time, and not afterwards, the said Collector shall have power to distrain for the said taxes, in case of non-payment, in the same manner as Sheriffs are allowed by law to distrain for the county levy.

Collector to be appointed, who shall give bond.

His powers and duties.

SEC. 7. That said Trustees shall appoint an officer, to be styled the Town Marshal, removable at their pleasure, who shall be sworn faithfully to discharge the duties of his office, and shall execute bond with security, in an adequate penalty, conditioned to pay over all sums of money that may come to his hands, to the person entitled thereto, and faithfully to discharge the duties of his said office; upon which bond, he and his securities shall be liable, to any person aggrieved, in like manner as Sheriffs are liable.

Town marshal to be appointed, who shall give bond, &c.

SEC. 8. That said Trustees shall have ample power to pass such by-laws and ordinances as they deem necessary or advisable for the preservation of the health, peace, harmony, safety and convenience of its citizens; to prevent the introduction of any infectious disease; to require and compel the abatement and removal of nuisances; to prohibit hogs and other animals from running at large within the town limits; to prevent riots, routs, and breaches of the peace; to prohibit the throwing of wood, or causing any other obstruction in any of the streets of said town. And upon the violation of any of the ordinances of said town, it shall be the duty of the Town Marshal to proceed forthwith to bring the case up, before some Justice of the Peace of the county, who shall hear and determine the same, according to law, and the ordinances of said town, and give judgment; upon which judgment the Town Marshal, who is hereby authorized, shall see executed, in the same manner that Constables, under like judgments, could proceed. All the fines and forfeitures arising under the breach of any of said ordinances, are hereby vested in the Trustees, for the use and benefit of said town.

May pass by-laws, &c.

How penalties are to be recovered for violation of ordinances, &c.

Fines, &c. vested.

SEC. 9. That where any person or persons, owning real property within said town, shall fail to pay the tax levied as aforesaid, on or before the first day of August, annually, it shall be the duty of the Collector appointed by the Board, to advertise the said real estate, by the number of the lot, or lots,

Real estate may be sold for tax and how.

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Trustees to
convey real es-
tate sold for
taxes.

How real es-
tate sold may
be redeemed.

Reservation
to infants, &c.

Redemption
money may be
paid to clerk.

List of lots
sold to be made
out and filed
with clerk and
recorded.

How streets,
&c., may be
graded & pav-
ed.

How pay-
ment for pav-
ing streets, &c.
may be enforced.

on which said tax may be due, together with the sum due on each lot, for six weeks successively, previous to the day of sale, at the court house door within said town; and also, for six weeks, in any newspaper that may be published in said town; the sale to be at the court house door within said town: and should the owner or owners of such lot, or lots, fail to pay the said tax, before the day of sale, together with all costs and expenses attending the advertising the same, then it shall and may be lawful for such Collector, then and there, agreeable to such advertisement, to proceed to sell, under the direction of the Trustees of said town, such lot, or lots, so advertised, to pay the tax thereon due, together with the costs attending such advertisement; and it shall be the duty of the said Trustees, and their successors, at any time after the expiration of the time limited for redemption, to convey the same to the purchaser or purchasers, by good and sufficient deed or deeds of indenture, with special warranty; that all real property sold by virtue of this act, shall be redeemable within two years from the day of sale thereof, upon the payment of the tax and costs due at the time of sale, and an interest of twenty five per centum per annum thereon, and all taxes that may have become due after the sale thereof: provided, always, that all infants and *feme coverts* whose real estate may be sold by virtue of this act, shall be allowed two years after their several disabilities are removed, to redeem the same, on the payment of the tax and costs due at the time of sale, and all the taxes that may be due or paid until such redemption, together with interest thereon, at the rate of six per cent. per annum, from the time such tax or taxes became due, until such redemption: and provided, also, that the redemption money as aforesaid, may be paid to the Clerk of the Board of Trustees, and his certificate shall be good for the same.

SEC. 10. That it shall be the duty of the Collector of the taxes aforesaid, within ten days after the sale of any lot or lots sold in pursuance of this act, to make out a true and faithful list of such lot or lots so sold, with the name of the purchaser, and return the same to the Clerk of Board of Trustees; and it shall be the duty of the said Clerk to record the same, in a book to be kept for that purpose, for the information of all persons concerned.

SEC. 11. That it shall be lawful for the said Trustees, whenever two thirds of the owners of lots fronting upon any street, or streets, or any portion of a street, shall petition therefor, to cause such street or streets, or portion of streets, to be paved, with the side walks binding thereon, or side walks alone, at the cost and expense of the owners of the ground fronting such street, or portion of a street; and the said Trustees shall possess ample power to sell and convey any lot, or lots, the owner of which shall refuse, when required to defray the expense of grading and paving the street or side walk binding thereon: provided, however, that the owner or owners of such lot, so

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old, shall be allowed the term of one year after such sale, to redeem the same, by refunding the amount for which the same may sell, with twelve per cent. per annum interest thereon, till refunded.

SEC. 12. The plat of said town shall be entered upon the record book of the Trustees, and also in that of the deed book of the County Court; and all the former acts of the said Trustees are hereby legalized.

Plan of town to be recorded.

SEC. 13. Said Trustees are hereby vested with full power to pass any and all laws or ordinances (not hereby granted) for the purpose of carrying fully into effect and execution, the foregoing enumerated powers: provided, however, that the said Trustees shall pass no ordinances repugnant to the constitution and laws of the United States, or of this State.

By-laws and ordinances.

SEC. 14. That all acts coming within the purview of this act are hereby repealed.

SEC. 15. That the Trustees of the Town of Monticello, in Wayne county, shall have power to levy a tax upon the property of said town, that may be sufficient to keep the public square in good order.

Approved February 20, 1839.

CHAP. 1294.—AN ACT to reduce into one the several attachment laws, and for settling proceedings on attachments against absconding debtors.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for any creditor, (or in his absence, his agent,) to go before any Justice of the Peace of the county in which his debtor resides, or last resided, and make complaint that his debtor is removing out of the county privately, so that the ordinary process of the law cannot be served upon him, or absconds and conceals himself so that the ordinary process of law cannot be served upon him; upon which complaint, such Justice shall issue an attachment against the estate of such debtor, or so much thereof as shall be of sufficient value to satisfy the debt, interest and cost of such creditors, returnable before himself or some other Justice of the Peace, when the debt shall be fifty dollars or under, and returnable to the Circuit Court of his county, when the debt shall exceed fifty dollars; which attachment shall be directed to all Constables and Sheriffs in the Commonwealth of Kentucky; and it shall be lawful for such Constable or Sheriff, who may receive such attachment, to serve and levy the same upon the slaves, goods or chattels of the defendant, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees to appear be-

In what cases attachment may issue, by whom issued and by whom served, and upon what they may be levied.

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fore the Justice of the Peace or Circuit Court, (according to the amount of the plaintiff's demand,) before which Justice or court the attachment may be returnable, there to answer on oath, what he or she is indebted to such defendant, and what effects of such defendant, he or she has in his or her hands, or had, at the time of serving such attachment; which being returned executed, the court may thereupon compel such garnishee to appear and answer as aforesaid.

Bond to be
taken and form
thereof.

SEC. 2. Every Justice of the Peace, before granting such attachment, shall take bond and good security of the party for whom the same shall be issued, in double the amount of the debt and interest sought to be attached, payable to the defendant and conditioned as follows, to-wit: "The condition of the above obligation is such, that, whereas, the above bound — is about to sue out an attachment against the said —; now should the said plaintiff succeed in his suit, or well and truly pay to the said defendant all such damages and costs, which shall be awarded or recovered against him by the defendant, in case the plaintiff shall be cast in the said suit, then this obligation to be void, otherwise to remain in full force and virtue." Which bond shall be returned to the court or Justice of the Peace, to which or whom the attachment may be returned; and the defendant, if the condition of the said bond be broken, may maintain his action thereon and recover such costs and damages as he or she may have sustained; and every attachment which may be issued, without such bond being taken, (or where no bond shall be returned,) is hereby declared illegal and void, and shall be dismissed.

Where bond
to be returned.

May be re-
plevied.

Form of bond.

SEC. 3. All attachments shall be repleviable, by giving bond with good security to the Sheriff or Constable serving the same, payable to the plaintiff; which bond such officer shall take, and the condition shall be in substance as follows, to-wit: "The condition of the above obligation is such, that if the above bound — shall appear at the next — term of the — Circuit Court, on the first day thereof, (or before —, a Justice of the Peace for — county, as the case may be,) and abide by and perform the order and judgment of said court (or Justice,) then this obligation to be void, otherwise to remain in full force and virtue."

Attachment
and bond to be
returned.

SEC. 4. Upon the defendant's replevying any attached effects, by giving bond as aforesaid, the officer taking the same shall return such bond with the attachment to the court or Justice, (as the case may be;) and such officer and his securities shall be liable, as in other cases upon his official bond, for taking insufficient security. After the said attachment and bond are returned, the court or Justice shall proceed to try the suit as other cases.

Goods taken
under attach-
ment, how sold
after jud't. is
given.

SEC. 5. And if any such attachment shall be returned, "executed," and the goods and effects attached shall not be replevied, as this act directs, the plaintiff shall be entitled to a judgment for his debt, and may take execution thereupon; and

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all goods and effects attached, and not replevied as aforesaid, shall be sold and disposed of, for and towards the satisfaction of the plaintiff's judgment in the same manner as goods taken upon a writ of *feri facias*; and where any attachment shall be returned, served in the hands of any garnishee, it shall be lawful, upon his or her appearance and examination, in the manner by this act before directed, to enter up judgment and award execution, against every such garnishee, for all sums of money due from him or her, to the person absconding, or in his or her custody or possession, for the use of such person, or so much thereof as shall be of value sufficient to satisfy the debt and costs of the complainant; and all goods and effects whatsoever, in the hands of any garnishee, belonging to such absconding person, shall be liable to satisfy such judgment.

SEC. 6. When the Sheriff, or other proper officer, shall return, on any writ of *capias*, or upon a warrant, to answer in any civil action, that the defendant "is not found within his county," the plaintiff may sue out an *alias* or *plurias capias*, or another warrant, until the same shall be served; or such plaintiff may, at his election, sue out an attachment against the estate of the defendant to force an appearance; and if the Sheriff, or other officer, shall return that he hath attached any goods, and the defendant shall not appear and replevy the same, the plaintiff shall be entitled to a judgment for his debt or damages, and costs; which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand, unless the plaintiff shall choose, in any such case, to have a writ of inquiry of damages; and in other cases the damages shall be settled by a jury, sworn to inquire thereof: the goods attached shall remain in the hands of the officer until such final judgment be entered, and then be sold in the same manner as goods taken upon a *feri facias*; and if the judgment shall not thereby be satisfied, the plaintiff may sue out execution for the residue; and in case more goods be attached than will satisfy the judgment, the surplus shall be returned to the defendant, provided the defendant shall have the right to appeal from any judgment which may be rendered, under the same rules as now provided for appeals in other cases.

SEC. 7. In all cases in which a Constable shall levy an attachment, where the demand exceeds fifty dollars, the property so attached shall be delivered by such Constable, as soon as may be, with his return upon the attachment, to the Sheriff of the county in which the attachment was sued out, whose duty it shall be to act with the same, in every respect, as if it had been attached by himself; and the Constable shall be entitled to the fee for levying the attachment and taking the replevin bond if he should take one; and where attachments of fifty dollars or less are levied, the Justice, before whom such attachment shall be tried, shall give judgment and award execution, on sufficient proof of the truth of the claim, or for any

May issue in cases where process of law cannot be served, and judgment had and how executed.

Constable to deliver to sheriff where amount is over \$50.

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part thereof, subject to appeals as other cases tried on a warrant.

Form of attachment.

SEC. 8. The attachment shall be in substance as follows, to-wit: "Whereas A. B. by himself (or by his agent, C. D.,) hath this day made complaint to me, a Justice of the Peace for ——— county, that E. F. is removing privately out of the said county, so that the ordinary process of the law cannot be served on him, (or so absconds and conceals himself, that the ordinary process of the law cannot be executed upon him, as the case may be,) and that the said E. F. is justly indebted to him in the sum of ——— dollars; and he having executed bond according to law: these are, therefore, in the name of the Commonwealth of Kentucky, to command all Sheriffs and Constables to attach so much of the goods, chattels and slaves of the said E. F., as will be sufficient to satisfy the said sum of money and costs to the said A. B., and the Sheriff or Constable so executing this warrant, to make due return thereof according to law, within sixty days. Given under my hand this ——— day of ———, 18—. J. P."

When to take effect.

SEC. 9. This act to take effect from and after the first day of June, eighteen hundred and thirty nine, and all laws coming within the purview of this act, are hereby repealed.

Approved February 20, 1839.

CHAP. 1295.—AN ACT to change the time of holding the Harlan, Perry, Breathitt and Clay Circuit Courts.

Harlan circuit.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That hereafter the Harlan Circuit Court shall commence on the Wednesdays succeeding the first Mondays in the months of April, July and October, and continue four juridical days, (if the business shall require it,) at each term. The Perry Circuit Court shall commence on the Tuesdays next succeeding the Harlan Circuit Court, and continue four juridical days, (if the business shall require it,) at each term. The Breathitt Circuit Court shall commence on the third Mondays in April, July and October, and continue five juridical days at each term, if the business shall require it. The Clay Circuit Court shall commence on the fourth Mondays in April, July and October, and continue six juridical days at each term, if the business shall require it.

Perry circuit.

Breathitt circuit.

Clay circuit.

Process, &c. made returnable to terms as changed.

SEC. 2. That all process, recognizances, subpoenas, notices, &c. made returnable to the terms of said courts, as they were directed to be holden before the passage of this act, shall be, and the same are hereby, made returnable to the terms as changed and fixed by this act; and all such process, recognizances,

ces, notices, &c., shall have the same effect, and be acted upon in the same manner as if returned to the terms of said court, and at the times specified therein.

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Approved February 20, 1839.

CHAP. 1296.—AN ACT for the benefit of John Myers.

WHEREAS, Jacob Myers died without ever having been married, and left a last will and testament, by which he devised that his executors should sell lands to pay his debts, and to raise money to buy his nephew, Lewis Myers, two negro men, and devised the residue of his estate to the children of his deceased brother; and all his lands in Bullitt county were sold to pay his debts; and John Myers, one of the children of Lewis Myers, purchased out the interest of his brothers and sisters in the estate of Jacob Myers, and the right to the two negro men from Lewis Myers, which he has never received from the estate of said Myers: and, whereas, Peter Myers and Valentine Myers, the other two brothers of Jacob Myers, departed this life before the said Jacob Myers, and left children who resided in Virginia, but whose names are unknown; and the said Jacob left a tract of land on the Mississippi river, and other lands, to which the title is not disputed, and out of which the said John Myers is entitled to have the money raised to purchase the two negro men aforesaid; and it is inconvenient for the said John Myers to bring suit in the county where the lands lie, to have the same subjected to the payment of the legacy to the said Lewis Myers: and whereas the executors are dead, and it is reasonable that said John Myers should have remedy against the land for the said legacy—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for the said John Myers to file his bill in the Bullitt Circuit Court to subject said land to sale, or so much thereof as will raise the money to pay said legacy, with interest from the time it ought to have been paid, making all proper parties; and it shall be lawful for the court to decree a sale for that purpose, and to order the amount to be paid over to the said John Myers, and to make such other orders and decrees as may be necessary to vest the purchaser with the title and to carry into effect the object of this act.

SEC. 2. That the said court shall be, and is hereby, authorized and required, when the said case shall be fully prepared for hearing, to decree partition of the real estate of said Jacob Myers amongst his heirs or devisees, or their assignees and representatives, according to their respective rights and interests.

Bill in ch'ry
may be filed in
Bullitt circuit
court, and for
what purpose.

Partition may
be decreed.

Approved February 20, 1839.

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CHAP. 1237.—AN ACT to incorporate the Hickman Turnpike Road Company.

Company
formed, name
and style, and
objects of its
formation.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be, and is hereby, incorporated, as a body politic and corporate, in the county of Hickman, by the style and name of the "Hickman Turnpike Road Company," for the purpose of constructing a graded turnpike road from the town of Hickman to the Tennessee State line, in the direction of Dresden, in said State; and, also, for the purpose of constructing a graded turnpike road from Hickman to the Tennessee State line, in the direction of Troy, in said State—which company shall have perpetual existence as a body corporate, and by that name and style may sue and be sued, in any court of this Commonwealth; and may exercise the powers usually given to like corporations in this State, which have been created for the purpose of constructing turnpike roads.

Capital stock
and how taken
and subscribed.

SEC. 2. That the capital stock of said company shall be thirty thousand dollars, divided into shares of one hundred dollars each, and so soon as the sum of fifteen thousand dollars is subscribed by individuals, companies or corporations, to the capital stock of said company, the Board of Internal Improvement are hereby authorized to subscribe the sum of fifteen thousand dollars, on the part of the State, to the capital stock of said company, which shall be paid under the same rules and regulations now prescribed by law in relation to payments by the Board to other turnpike roads.

Com'rs to
open books.

SEC. 3. That John P. Clark, Robert Powell, Allen Moody, John Hanna, Henry T. Lansdale, James P. Taylor, James L. Chandler be, and they are hereby appointed commissioners to open books for subscriptions to the stock of said company, at such times and places as they may deem expedient; and that so soon as the sum of fifteen thousand dollars is subscribed by individuals, companies and bodies corporate, the subscribers shall become a body corporate, and shall have and possess all the powers and privileges conferred in the first section of this act; and as soon thereafter as convenient, the stockholders aforesaid shall hold a meeting and elect a President and four Directors of said company, who shall have power to superintend the construction of said roads.

When com-
pany shall be
organized.

President &
directors to be
elected.

Width and
grade.

SEC. 4. That said roads shall be opened at least fifty feet wide, and shall be graded so that the elevation shall not exceed two degrees; and whenever five miles of either of said roads is completed, and the same shall be certified by any two Justices of the Peace of Hickman county, to the Board of Internal Improvement, said Board shall have power, and they are directed to fix a rate of tolls for each gate that may be erected on said road that may be considered reasonable: pro-

Rate of tolls,
&c.

vided that only one gate shall be erected on the road leading to Troy, and two gates on the road leading to Dresden.

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SEC. 5. That unless the stock shall be subscribed in said company within two years from the passage of this act, the charter hereby granted shall be forfeited.

Approved February 20, 1839.

CHAP. 1398—AN ACT to amend an act, entitled, an act to incorporate the Jefferson Pond Draining Company and Rough Creek Manufacturing Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That all that part of the county of Jefferson, north of a line commencing on the Ohio river, where the dividing line between David Bell and Jacob Garr strikes the same; thence with said line and the line of John F. Garr, to the corner of Cochran's land; thence with the dividing line between said Cochran and Garr, to Benjamin Garr's line; thence with his line and David Blankinbaker's line, and on with said Blankinbaker's and Tyler's line to the Shippingsport and Salt river road; and all that part of said county south of a line beginning on the Ohio river at Randal W. Smith's northern corner, and running with his upper line, across from the river to Pond creek, shall not be included within the boundary now subject to taxation under an act, entitled, "an act to incorporate the Jefferson Pond Draining Company, and Rough Creek Manufacturing Company, approved February tenth, eighteen hundred and thirty eight.

Boundary of lands, &c. not to be included.

SEC. 2. That said charter shall be, and the same is hereby, so amended as to authorize the legal voters, who may own land therein, to meet at the two election precincts, now established in said boundary, on the first Monday in April, in each and every year, and elect a President and four Directors, who shall have all the power and authority now vested in said Board and Managers; and all such elections shall be conducted under the same rules and regulations as is now provided by law, in case of elections for members of the State Legislature.

Residents subject to taxation may vote for & elect pre'st and directors, when and how.

SEC. 3. That so much of said charter as provides that the Engineer, appointed by said company, shall assess the increased value of any land drained by said company, is hereby repealed; and hereafter such assessment shall be made by a jury as in cases of writs of *ad quod damnum*, which may be summoned by any Constable or Sheriff of said county.

How increased value of land shall be assessed.

SEC. 4. That at the next August election for members of the Legislature, a poll shall be opened at the Oakland and Lower Pond Precincts, to take the sense of the people, who are not excluded from taxation by this act, whether they are opposed to the act aforesaid, approved February tenth, eighteen hundred and thirty eight.

Approved February 20, 1839.

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CHAP. 1299.—AN ACT for the benefit of William Gilpin and Frances Gilpin.

May file petition in ch'ry in Anderson circuit court, & for what purpose.

Duty of the court.

Lands exchanged to be conveyed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for William Gilpin, and Frances his wife, and Samuel McGuire, to file their joint petition in chancery, in the Anderson Circuit Court, setting forth that the tract of seventy acres of land, devised to said Samuel McGuire, as Trustee for Frances Gilpin, by the last will of James McGuire, deceased, is destitute of timber, if laid out according to the directions of said will; and that it would redound to the interest of said Gilpin and wife, to exchange a portion of the land so devised, for timbered land, contiguous thereto; and thereupon the Judge of the Anderson Circuit Court shall proceed to ascertain, by the appointment of commissioners, or by affidavits filed, whether the facts charged and stated in said petition be true; and if true, the Circuit Court aforesaid shall have power to decree an exchange of the land so devised in trust, or a part thereof, for other land convenient thereto.

SEC. 2. That in case the said court shall approve and decree an exchange of lands, as contemplated by the first section of this act, it shall be the duty of the court to cause the land to be conveyed and held in trust, for the use and benefit of Frances Gilpin, according to the provisions, and for the same uses that are prescribed in the last will of James McGuire, deceased; and the conveyances shall be recorded in the Clerk's office of the Anderson County Court.

Approved February 20, 1839.

CHAP. 1300.—AN ACT to incorporate the Newton Society of Bacon College.

Name and style and corporate powers.

Proviso.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the present, and those who may hereafter become members of the Newton Society of Bacon College, and their associates and successors be, and are hereby made and constituted a body politic and corporate, by the name and style of the "Newton Society;" and by that name shall have perpetual succession, and are hereby made able and capable to have, purchase, receive, possess, enjoy and retain, to them and their successors, such tenements, goods and effects, as they may deem necessary for the advantage of such society, and for the promotion of literature, the fine arts, and the dissemination of knowledge; the same to sell and dispose of at pleasure: provided, that the Legislature reserve the right to repeal, amend, or modify this charter, at pleasure.

Sec. 2. That the Newton Society is hereby empowered to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity in this Commonwealth; and shall be, and is hereby vested with all privileges and powers which by law are incident to corporations of similar character; also to make, have and use, a common seal, and the same to break, alter, or renew at pleasure; also, to form, establish, and put in execution, such by-laws, ordinances and regulations as shall be necessary and convenient for the government of said corporation, and which are not contrary to the constitution and laws of this Commonwealth; and generally to do and execute, all and singular, the acts necessary to carry into effect the objects of this charter.

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May sue and
be sued, &c.May pass by-
laws.

Sec. 3. That the members of said Society, on the first Friday in April, in the year one thousand eight hundred and thirty nine, and at such other times as may be prescribed in its by-laws, shall meet, and elect a President, Secretary, Treasurer, and such other officers as the society may think proper, for the government thereof, whose terms of office shall expire at such times as shall be hereafter prescribed in the laws and regulations governing the same.

President,
Secretary, &c.
to be chosen,
&c.

Sec. 4. The President elect, for the time being, shall have power, and is hereby authorized to appoint, from time to time, committees, officers and agents as shall be necessary and convenient to carry into effect the objects for which this corporation is established; and to levy and collect taxes, fines, forfeitures and contributions, in conformity with the laws of said society; a majority of the members at any one time belonging to the society, shall constitute a quorum.

Pres'dt may
appoint com-
mittees, &c.May levy &
collect taxes.

Approved February 20, 1839.

CHAP. 1301.—AN ACT authorizing the sale of real estate of Hiram Spurlock, deceased, and for other purposes.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Hiram Spurlock, of Floyd county, departed this life, greatly embarrassed; and that his personal estate has been exhausted in the payment of his debts; and that recently, a decree has been rendered against said estate, for a considerable amount, and that there is now no assets to discharge said decree: whereas, also, it is represented that there is a certain negro man, by the name of Frank, who is remarkably dangerous and unmanageable, and that he has given the administratrix great trouble and expense in his management—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the administratrix of said Hiram Spurlock, deceased, to file her bill in the Floyd

Bill in ch'ry
may be filed.

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How proceeds
sale to be ap-
plied.

Circuit Court, for the sale of the said negro man, and the sale of any part of the real estate of said deceased, if necessary; and upon the proper parties being before the court, the court is hereby authorized to decree a sale of the said negro man, and any part of the real estate, if necessary, upon such terms and time as it may appear most compatible with the interest of said estate; and the court is directed to see that the debts of the said estate are paid, out of the fund arising from the sale of the negro man, or the real estate; and if there remains any sum over and above what will be necessary to pay the debts, the court is directed to dispose of the same, according to the laws now in force upon the subject of distribution.

Approved February 26, 1839.

CHAP. 1302.—AN ACT to establish the Southern Bank of Kentucky.

Name & style
—am't of capital
stock and
term of existence
and corporate powers.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be, and is hereby established, a Bank, by the name of the Southern Bank of Kentucky, with a capital stock of two millions of dollars, to be divided into shares of one hundred dollars, and to be subscribed and paid for by this Commonwealth, individuals, companies, and corporations, in the manner hereinafter specified; which subscribers and shareholders, their successors and assigns, shall be, and are hereby created a body politic and corporate, by the name and style of the President, Directors and Company of the Southern Bank of Kentucky; and shall so continue a body politic and corporate, until the first day of May in the year one thousand eight hundred and sixty nine; and by that name, under the restrictions hereinafter prescribed, shall be competent to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts or places, and in all matters whatsoever, as natural persons; with full power to acquire, hold, possess, use, occupy and enjoy, and the same to sell, convey, and dispose of all such real estate, goods, effects and chattels, as shall be convenient for the transaction of its business, or which may be received in discharge of any debt, or purchased in satisfaction of any judgment or decree, in favor of the Bank, or in the purchase of any property, on which said Bank may have a lien; and said Bank may have and use a common seal, change, alter and renew, the same at pleasure; and it may ordain and put in execution such by-laws, rules and regulations, for the good government of said Bank, and the prudent and efficient management of its affairs, as may be thought most proper; provided, they be not contrary to the constitution and laws of this State, or of the United States.

Sec. 2. That the said Bank shall have and keep its principal office of discount and deposit in the town of ———, south of Green river, and it shall have not more than four branches south of Green river. Its business shall be to lend money, discount promissory notes and bills, and deal in exchange; and it may issue bills and bank notes, payable to bearer on demand, at any of its offices of discount and deposit, but not of less denomination than five dollars; and it shall not issue any notes, bills, checks or orders, payable to bearer, other than such as are made payable on demand. The promissory notes made payable to any person or persons, and payable and negotiable at the principal office of discount and deposit, or any of the branches, or any other incorporated Bank or branch in this State, and endorsed to, and discounted by, said Bank, shall be, and they are hereby put upon the same footing as foreign bills of exchange; and remedy may be had, jointly or severally, against the drawers or endorsers, and with like effect, except as to damages, and except that, in a regular course of administration, they shall have no greater dignity or priority of payment than other notes; and the said Bank shall not, directly or indirectly, deal or trade in any thing, except in lending money and in exchange, and in gold or silver bullion, or in the sale of goods, chattels, rights and credits, really and truly pledged for money lent, and not redeemed in time, or goods which shall be the proceeds of its lands.

Sec. 3. That the Bank, or promissory notes to be issued by said Bank, shall be signed by the President of the principal Bank, and countersigned by the cashier thereof; and said Bank shall be restrained from issuing checks or orders, payable at any of its offices, or elsewhere, to any person or order, or to any person or bearer, with the intent that said checks or orders shall circulate as bank notes.

Sec. 4. That said Bank shall not, at any time, owe, whether by bond, bill, note or other contract, an amount exceeding twice the amount of the capital stock actually paid in, exclusive of sums due on deposit: and in case of excess the President and Directors, under whose administration it shall have taken place, shall be liable for any or all of the debts of said Bank, in their individual capacities, by a joint or several actions of debt against them, or any of them, their heirs, executors or administrators, in any court having jurisdiction thereof, by any creditor or creditors of said Bank, and shall be prosecuted to judgment and execution, any condition or agreement to the contrary notwithstanding; provided that if the President, or any of the Directors, be absent when the excess may be contracted or created, or being present, shall dissent from the act, by which the excess is about to be contracted or created, he or they shall not be liable under this section, if he or they shall, within ten days from the creation of such excess, or discovery thereof, make affidavit of their absence or dissent, and file the same for record with the recording officer of the

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Number of
branches and
business which
may be done &
transacted.

By whom
notes to be sign
ed, not to issue
checks to circu
late.

Limitation
as to amt of
debts. Bank
and Directors
made liable for
excess, how su
ed for, &c. &
how President
&c. may be re
lieved from lia
bility.

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Penalty for
failing to pay
specie.

county; and shall moreover, within ten days, give notice thereof in one of the public newspapers printed in this State; and transmit a copy thereof to the Governor of this State, for the time being; and shall, in said notice, call a meeting of the stockholders, which they are hereby authorized to do.

SEC. 5. That said Bank shall not, at any time, suspend, fail, or refuse payment, in gold or silver, of any of its notes, bills, or other obligations, due and payable, or of any moneys on deposit; and in case the officers, in the usual banking hours, at the office of discount and deposit, where the same shall be payable, shall refuse or unreasonably delay payment, in gold or silver, of the amount of any note there demandable, and presented for payment, or of the payment of any money previously deposited at such office, and then due and demandable by any person or persons entitled to receive payment of the same, said Bank shall be liable to pay damages, at the rate of twelve per cent. per annum on the amount thereof, from the time of such failure, refusal, or delay, until payment thereof; and for such failure or refusal, or for any violation of this charter, the same shall be forfeited; and a *scire facias* shall be sued out, in the name of the Commonwealth, by the Attorney General, and such proceedings be had as to declare such forfeiture by the judgment of a court; and from and after the judgment of forfeiture, said corporation shall cease to exercise any of the powers and privileges hereby granted: provided said forfeiture shall not be construed to prevent said Bank from suing and being sued, and continuing its operations, for the purpose of closing its concerns, nor from making any contracts that may be convenient and proper for that purpose.

Number of
directors and
their qualifica-
tions. How e-
lected, &c.

SEC. 6. That the real and personal estate, business property, funds and prudential concerns of said Bank, and the administration of its affairs, shall be under the direction, management and control, of eleven Directors, eight of whom shall represent the private stockholders, and three the Commonwealth of Kentucky, chosen as hereinafter directed. They shall be stockholders to the amount of, at least, five shares each; and after the first election, have been stockholders at least three months previously to their election; they shall be residents of this State and citizens of the United States, and after the first election they shall be elected, annually, on the first Monday in May. Each Director shall be a stockholder in his own right; they shall hold their offices for one year, and until their successors be chosen. The Directors representing the private stockholders, shall be chosen by the shareholders, who shall meet at the annual elections in the town where the principal Bank may be located, at such time and place, as the directory, for the time being, shall direct; and notice of the time and place of holding the annual elections, shall be published in at least two authorized newspapers, printed in this State, thirty days next preceding the election. The election shall be by plurality of votes, to be counted and read in

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public, after all the votes are taken; the elections shall be conducted under the direction of three shareholders, acting under oath, and previously chosen by the directory, and not of their own body. No person who is a Director or officer of another Bank, shall be eligible as a Director in this Bank; and any Director becoming a Director or officer in an another Bank, or while under protest in this Bank, for the non-payment of debt, shall be held to have vacated the office of Director in this Bank; nor shall two partners in trade be eligible as Directors in this Bank, at one and the same time; nor shall any person be a Director of this Bank who shall be a partner in trade or business, with any person, who shall, at the time, be a Director of any other Bank; and if the President, Cashier, or any Director, shall fail or become insolvent after his election or appointment, he shall become incapable to serve as an officer in this Bank, and shall be held to have vacated his office or place; nor shall he be appointed to serve in this Bank until his debts are paid, or until he obtains a full discharge from the same; nor shall any one who has ever failed in business, be eligible to the office of President, Cashier, or Director, in this Bank, until all his debts are paid, or until he is fully discharged from the same. If, from any cause, an election should not take place on the day fixed by this charter, the corporation, for that cause, shall not be dissolved; but the stockholders may hold an election on any other day the by-laws may direct.

What will vacate the office of president, director, & other officers.

SEC. 7. That all meetings of the stockholders, and all elections under this charter, each and every shareholder, whether individual, companies, or corporations, shall be entitled to one vote for each share held in his or their own right, up to fifty shares, and for every five shares over fifty, up to one hundred, one vote; and for every twenty shares over one hundred, one vote. After the first election, no share shall entitle the holder to a vote, unless the same has been held, by the person claiming to vote on the same, at least three months prior to that time, and shall so appear on the books of the Bank. Any stockholder entitled to vote, may do so in person or by proxy, such proxy being granted to a stockholder who is not the President or a Director, the Clerk, Cashier, or Teller of the Bank; and any stockholder, who is not a citizen of the United States, shall not be entitled to vote on his stock.

How shares of stock may be voted on.

SEC. 8. That the Directors chosen for the principal Bank, under the provisions of this charter, shall, as soon as may be, after the first, and every annual election of Directors, elect a President from their own body, who shall preside at the board until the next election; and in case of the death, absence, resignation, or vacation of the office of President, the residue of the Directors shall choose a President pro tempore; they shall fill all vacancies which may occur in their own body, during the time for which they were chosen, and appoint a Cashier, Clerks, agents, or servants, of the principal Bank, fix their

How & by whom president shall be elected

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compensation, define their powers, and prescribe their duties ; and shall require of them such bonds, and such penalties, as they may deem right ; which bonds shall be laid monthly before the directory, and an entry made thereof on record ; and the directory may, from time to time, require such additional bonds and sureties, with such penalties and conditions, as in their opinion, will secure the Bank from loss or damage ; and all such officers shall hold their places during the pleasure of the President and Directors.

By-laws, rules
&c. may be
made.

SEC. 9. The President and Directors of the principal Bank (any six of whom shall form a quorum for the transaction of business,) may, from time to time, make such by-laws, rules and regulations, for their own government, and for the management and disposition of the property, estate, funds, and business of the Bank, and all matters appertaining thereto, as they may deem expedient, not contrary to the provisions of this charter, or the by-laws, rules and regulations which the stockholders, at their annual or other meetings, may, from time to time, prescribe : provided, however, that a concurrence of a majority of all the Directors shall be necessary in the adoption of any of the by-laws of the institution.

Stated meet-
ings of directors
to be held.

SEC. 10. The President and Directors shall hold stated meetings at least once a week, on such days, and at such hour of the day, as they may, from time to time, appoint, and at such other times as they may agree on ; and they shall attend called meetings at any time the President shall so direct ; and all questions before the Board shall be decided *via voce* ; and on the request of any two members, the yeas and nays, on any proposition submitted, shall be entered or recorded on the journal of their proceedings ; and no vote shall be reconsidered, when a less number are present, than when the vote was given.

Where branches
to be estab-
lished & am't
of capital to be
employed there
in.

SEC. 11. The President and Directors of the principal Bank shall establish not less than four branches south of Green river, as hereafter directed, and two branches north of Green river, as hereafter directed. The amount of capital which shall be employed at the principal Bank, and at the several branches, shall be under the control of the President and Directors of the principal Bank, so as to employ the same most advantageously to the stockholders and the community ; and the right of the President and Directors of the principal Bank to change the location of a branch, which shall have been mismanaged, or shall have proved unproductive, shall be unquestionable : provided, there shall not be employed more than one fourth of the capital stock actually paid in, as banking capital, in the principal Bank, unless authorized by the Legislature ; and it shall be lawful to employ the first two hundred thousand dollars, paid in by individuals, companies, and corporations, as banking capital in the principal Bank ; and it shall then be the duty of the President and Directors of the principal Bank, to employ the residue of the capital stock, as paid in,

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to the establishment of branches, until nine hundred thousand dollars of the balance of the capital stock paid in shall be employed in the branches; and, thereafter, one fifth of what shall be paid in, shall be employed in the principal Bank: provided, however, that nothing in this section shall be so construed, as to authorize and empower the President and Directors of the principal Bank to withdraw or remove any of the branches which may be located by them, so long as the same shall yield a net dividend of six per cent. per annum, upon the amount of capital which shall have been allowed to such branch, and shall be safely and properly managed and directed.

SEC. 12. The President and Directors of the principal Bank shall have power and authority to appoint nine Directors, and a Cashier, for each of the branches, taking care to appoint qualified stockholders as Directors. They shall also prescribe such rules and regulations, for the government of the branches, as they may deem right, and shall have power to enforce the same.

Appointment
of directors &
officers of branches.

SEC. 13. The Directors of each of the branches shall choose one of their own body as President, appoint a Clerk, and such other officers, as the President and Directors of the principal Bank shall direct; and not less than a majority shall form a quorum for the transaction of business.

Directors of
branches to ap-
point their pres-
ident.

SEC. 14. That no dividend of the profits of said Bank shall be declared until there shall be a surplus of twenty thousand dollars, for each million of dollars of the capital stock of the Bank actually paid in; and the surplus, or contingent fund, so raised, shall never be reduced below that ratio on all stock paid for; and it shall be the duty of the President and Directors of the principal Bank, on the first Monday in January and July, of each year, to declare a dividend of the profits, over and above the contingent fund, aforesaid, among the stockholders, payable to them on demand; of which dividend, and the time and place of payment, notice shall be given; and if, at any time, said President and Directors shall declare a dividend lessening the capital stock, or lessening the contingent fund aforesaid, or by any mismanagement or neglect of duty, shall cause any loss or deficiency of, or in, the capital stock of said Bank, the Directors consenting thereto, or guilty of such mismanagement or neglect of duty, shall be jointly and severally liable to the stockholders, or any creditor of said Bank who may be injured thereby; and the President and each Director shall be deemed guilty of such mismanagement or neglect, or to have consented to such dividend, unless he forthwith give notice of his dissent thereto, or his absence from the institution, in like manner as provided in the fourth section of this charter, and call a meeting of the stockholders as herein provided.

When and
upon what
terms dividends
may be declar-
ed.

SEC. 15. That it shall be the duty of the Cashier of the principal Bank, on the first day of July, eighteen hundred and thirty nine, and on the first day of July in each succeeding year,

Tax or bonus
to be paid to
the State.

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during the continuance of this charter, to pay to the Treasury of this Commonwealth twenty five cents on each one hundred dollars of stock held and paid for in said Bank, which shall be in full of all tax or bonus; provided, that the Legislature may increase or diminish the same; but at no time shall the tax exceed fifty cents on each one hundred dollars of stock paid for in said Bank.

Compensation
to president &
directors.

SEC. 16. That the Board of Directors of the principal Bank shall allow to the President thereof, and to the Presidents of the branches, such reasonable compensation for their services, as they may, from time to time, deem just; but no compensation shall be allowed to any Director of the principal or any of the branches, unless the same be voted by the stockholders at some regular meeting.

Monthly ex-
aminations to
be made of
branches.

SEC. 17. That it shall be the duty of the President and Directors of the principal Bank, and they are hereby required, as often as once in every month, to cause a strict examination to be made of the accounts of the cashier, and a full and complete statement to be made, and entered on the journal of the proceedings of the Board; and they shall cause the President and Directors of the several branches to make a like monthly examination and statement of the accounts of the Cashiers to be made and entered on the journals of their proceedings.

Cashier and
other officers
prohibited from
engaging in other
business, or
to become in-
debted to the
Bank.

SEC. 18. That it shall not be lawful for the Cashier, Clerk, Teller, or other subordinate officer of the principal Bank, or any of the branches, either directly or indirectly, to engage in, or carry on, any other business, than that of said Bank, without the special license of the President and Directors of the principal Bank; nor shall any of them, either directly or indirectly, become indebted to said Bank, either as borrower, endorser, surety, or otherwise; and it shall not be lawful for the President, or any of the Directors of the principal Bank, or branches, to become bound as surety, or accommodation-endorser, on any note or bill to be discounted in said Bank; and a violation of any of the provisions of this section, shall subject the person violating the same to a penalty of five thousand dollars, to be recovered by action of debt in the name of the corporation, and for its use and benefit.

Penalty on
cashier & other
officers for using
funds of Bank
or making false
entries.

SEC. 19. That if the Cashier, Clerk, Teller, Agent, or other officer of the principal Bank, or any of its branches, shall, without the authority of the President and Directors of the Bank or branch, as the case may be, appropriate any of the funds of said corporation to his own use, or to that of any other person, or shall wilfully fail to make correct entries, or shall knowingly make false entries on the books of the Bank, with intent to cheat or defraud the corporation or any person, or to hide or conceal any improper appropriation of the funds of the corporation, the officer so offending, shall be deemed guilty of felony, and shall, upon conviction thereof, be sentenced to confinement in the jail and penitentiary of this

State, for a period of not less than five, nor more than twenty, years.

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SEC. 20. That the President and Directors of the principal Bank shall keep a record or journal of all their proceedings, which they shall produce to the stockholders, when by them demanded, at any regular meeting; and they shall be open to inspection and examination of the Governor of this Commonwealth, or any person duly authorized by him, or to any committee appointed by the Legislature; and the President and Directors of the principal Bank shall cause the President and Directors of the branches to keep a record or journal of all their proceedings, which they shall produce to the President and Directors of the principal Bank at all times, or to any person or persons authorized by them to inspect the same; and which shall be opened to the inspection of the Governor of this Commonwealth, or any person duly authorized by him; and to the stockholders, at any general meeting, or to any committee appointed by the Legislature.

Journal of proceedings to be kept & subject to inspection, and by whom.

SEC. 21. That it shall be the duty of the President and Directors of the principal Bank, during the first week of the session of the Legislature in each year, to transmit to the Secretary of State an accurate and just statement of the condition of the principal Bank and branches, as it existed on the first day of the preceding month; which statement shall specify the amount of capital stock actually paid in, and the amount not paid in; and the value of the real estate belonging to the Bank, and its cost; the total amount of the debts due to and from the Bank; the amount of gold and silver and other coined metal and bullion on hand; the amount deposited; the amount of bills in circulation, and the amount of bills on hand of other incorporated Banks, and the amount of notes in circulation of each denomination issued by the Bank; the rate and amount of each dividend of profits made by the Bank, with the amount of surplus profits or the contingent fund; which statement the Governor of the Commonwealth shall cause to be laid before the Legislature of Kentucky; and they shall, when required by the Legislature, report all bad and doubtful debts.

Reports to be made to Legislature.

SEC. 22. That the Presidents, Cashiers, Directors, Clerks, Tellers, and all other officers of the principal Bank and branches, previously to entering on the discharge of their duties, shall take an oath before some Justice of the Peace of this State, faithfully, honestly, impartially, and to the best of their skill and judgment, to discharge all the duties of their respective offices and stations under this charter, or which may be required of them by the by-laws, rules and regulations of the corporation.

Oath of officers.

SEC. 23. That said Bank shall not contract for, or receive, a greater rate of interest, than at the rate of six per centum per annum, for the loan or forbearance of money; and interest on promissory notes, negotiable and payable at said Bank,

Rate of interest.

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and there discounted, shall be calculated on the true time such notes have to run, including three days of grace, and shall be paid in advance, and on banking principles, in conformity with Rowlett's tables of discount and interest.

Certificates
of stock assign-
able.

SEC. 24. That the President and Directors shall issue certificates of stock to the holders thereof, for so much as shall be paid for; and the shares of the capital stock of said Bank shall be considered, and held in law, as personal property, and assignable and transferable only in such manner, and at such place or places, as the President and Directors of the principal Bank shall, by their by-laws, prescribe.

Bills, notes,
&c. transfera-
ble and passa-
ble by delivery.

SEC. 25. The certificates of deposit, bank bills, or notes, bills of exchange, post notes, or orders issued, by said Bank, and signed by the President and countersigned by the Cashier, promising or requesting the payment of money to any person or persons, and to order or bearer, as the case may be, shall be obligatory on said Bank, although not under its seal; and such of said notes, or bills, as shall be payable to order, shall be transferable by assignment, and those made payable to bearer, by delivery.

Gen'l meeting
when to be held
—statement of
condition of the
Bank to be pre-
sented.

SEC. 26. That the general meeting of the stockholders shall be held, annually, on the first Monday in May, in each year, at such place as may be designated for the location of the principal Bank, at the time of the annual election; to which meeting the President and Directors of the principal Bank shall present an accurate statement of the condition and affairs of the Bank; and general meetings of the stockholders may be called as provided in the charter, or by the President and Directors of the principal Bank, when they esteem it desirable, or by any number of stockholders the by-laws of the corporation shall require.

Legislature
may investigate
affairs.

SEC. 27. The Legislature shall have the right to investigate the situation and affairs of said Bank, by any committee they may appoint for that purpose, from time to time.

Gen'l Court
to try forfeit-
ures.

SEC. 28. The General Court shall have jurisdiction to try the forfeiture of this charter, for the violations of any of the provisions of the same. The proceedings shall be by *sciens facias*, alleging and specifying the acts of forfeiture relied on; and shall only be sued out, at the instance of the Attorney General, when directed to do so, by order of the Legislature.

Com'rs to o-
pen books for
subscription of
stock.

SEC. 29. That Franklin Gorin, George W. Trabue, Robert Murrell, B. B. Crump, Wilson Ritter, Joel W. Depp, Robert D. Maupin, Burwell Lawless, John H. Page, T. M. Ewing, F. M. Bristow, J. W. Kendall, W. A. Garth, S. Waggener, G. W. Garth, M. B. Morton, R. Bibb, Jr., I. T. Donaldson, Tho. Quigley, Jno. H. Phelps, F. C. Sharp, J. B. Crockett, Jas. Weir, George Short, J. A. Spalding, G. F. Catlett, D. R. Murray, S. McClarty, R. H. Paris, Drury Burton, J. C. Mulligan, Braxton Small, George Woolfolk, John Anderson, John Hanna, John Hill, Rice Maxey, William Butler, George Riffe, J. H. Rack-erby, E. Shepardson, F. W. Urey, Wm. Gordon, C. Lyon, J.

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Bayless, B. Y. Owsley, John B. Helm, John Marshall, Jacob Vanmeter, Boanerges Roberts, Bourne Goggin, Micajah Phillips, Harold P. Saufley, Wyatt H. Ingram, George Atkinson, Edmund M. Waggener, John E. Trabue, James B. Bowling, and Martin Alexander, shall be, and they are hereby constituted and appointed Commissioners to open Books and receive subscriptions for the capital stock of said Bank, and to superintend the election of the first Board of Directors; any three of whom shall be competent to exercise the powers and perform the duties required by this section.

SEC. 30. The said Commissioners shall have power, and they are authorized and required, on the second Monday of April, eighteen hundred and thirty nine, or at such other time within twelve months thereafter, as they shall deem expedient, having given not less than thirty days notice thereof, in some of the newspapers printed in Hopkinsville, Russellville, Bowlinggreen, Louisville and Lexington, to open books for the subscription of capital stock of said Bank, at Hopkinsville, Elkton, Russellville, Henderson, Glasgow and Bowlinggreen, and at such other places within the State, as they may deem advisable; and cause said books to be kept open from ten o'clock in the morning until two in the evening, for at least twenty days, and until ten thousand shares shall have been subscribed, when the same may be closed; and if more than twenty thousand shares shall have been subscribed by individuals, companies and corporations, the said Commissioners shall deduct the excess from the largest subscriptions in such manner, that no subscription shall be reduced and leave the subscription of any other, larger; and said Commissioners may, if they deem it advisable, cause books to be opened for the subscription of any part of the stock they may direct, in any of the principal cities of the United States, on such days as they may deem advisable: provided, that the duties to be performed under this section, may be done by the commissioners, or any three of them, or by such persons as they may think proper to appoint.

When and where books to be opened for sub. of stock and how sub's are to be regulated.

SEC. 31. That if the whole ten thousand shares of capital stock shall not be taken, when the books of subscription shall first be opened by the commissioners, the president and directors may cause the books to be opened, annually, on the first Monday in May, or at such other time in the year as they may direct, and cause them to be kept open not less than twenty days, or until the whole balance shall be taken; and the president and directors may require such premium on the stock sold at the re-opening of the books, as they shall deem right; and such premium shall be the property of the Bank.

Books may be re-opened annually.

SEC. 32. That when not less than eight thousand shares of the capital stock shall have been taken, and the Commissioners shall have closed the books, it shall be their duty to give notice in some public newspapers, printed at each of the places where the books may have been opened, if there be a news-

When and where first election to be held notice to be given, &c.

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paper printed at such place, and stock there subscribed; and appoint a day and place in the town of Elkton, in the county of Todd, for the election of the first Board of Directors for said Bank; who shall hold their offices until the succeeding annual election; and not less than thirty, nor more than sixty days notice shall be given of the time and place of electing the said Board of Directors; and some three of the Commissioners shall act as inspectors of the election, and shall take the proper oaths, and perform all the duties of inspectors of election, in like cases.

Payment of stock to be made in gold or silver, calls to be made.

SEC. 33. That the payment of the shares of the capital stock held by individuals, companies and corporations, shall be made in gold and silver, and at the times, and in the manner following, to-wit: five dollars on each share, to the Commissioners, at the time of subscribing, and five dollars on each share, within ten days after the election of the first Board of Directors; and twenty dollars on each share within sixty days thereafter; and the residue shall be paid in such instalments, as the President and Directors of the principal Bank shall require: provided, that not more than twenty dollars shall be called, at one any time, on each share; nor shall the time between the calls, be less than ninety days.

Stock may be forfeited for nonpayment of calls.

SEC. 34. That should any of the subscribers to the capital stock of said Bank fail or refuse to pay for their stock, as herein provided, the President and Directors, first giving public notice, in at least two public authorized newspapers, printed in this State, for the space of thirty days, by a resolution entered on the records, may forfeit such stock, and proceed, at such time, as they may deem expedient, to re-sell the same; and all partial payments, made on any stock which shall be forfeited, shall be held, for the benefit of the Bank.

Governor to subscribe stock—am't to be subscribed by him—when p'd and how to be paid for.

SEC. 35. That the Governor of this Commonwealth shall be, and he is hereby authorized and directed, within ten days after the Commissioners shall notify him that eight thousand shares of the capital stock of said Bank have been subscribed, by individuals, companies, or corporations, to subscribe for, and on account of, this Commonwealth, eight thousand shares of the capital stock of said Bank; and when the additional subscription of two thousand shares of the capital stock of said Bank shall, thereafter, be made by individuals, companies, or bodies corporate, the Governor shall, in like manner, subscribe, on the part, and for this Commonwealth, the additional amount of two thousand shares to the capital stock of said Bank, which several amounts, herein directed to be taken and subscribed for, on the part of this Commonwealth, shall be paid by the Governor thereof, by executing to said President and Directors the bonds or scrip of this Commonwealth, for the sums before directed to be subscribed, in such amounts as they may require, bearing on its face an interest of six per cent. per annum, payable by this Commonwealth, on the first Mondays of January and July, in each year, at the principal Bank, and

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redeemable at the pleasure of the Commonwealth, at any time within five years after the expiration of this charter; which bonds or scrip, shall be received by said President and Directors as payment, in full, of all subscriptions of stock, as before directed, to be taken and subscribed on the part of this State; and it shall be lawful for the President and Directors of said Bank to sell and transfer said bonds or scrip; and by endorsement thereon, to agree and bind the Bank to pay the interest, either annually or semi-annually, to the holder, of the same, without any demand being made upon the State for the interest thereof, at any place or places within the United States; and said bonds or scrip shall be transferable at such place, or places, and in such manner as the President and Directors shall prescribe by their by-laws; but the same shall at no time be sold or transferred, or otherwise disposed of, by the President, Directors, and company, of said Bank, for a less sum than the nominal amount of any such bond or scrip, with the interest which may be due thereon; and it shall be the duty of the President and Directors of said Bank, out of the amount of the dividends which will be due the Commonwealth on the stock, to redeem the aforesaid bonds or scrip, for interest, without charge: and the residue of such dividends is hereby set apart for the payment of the interest upon such loan as the State may make for Internal Improvement, until otherwise directed by law. The Governor of this Commonwealth, for the time being, shall annually nominate, and with the advice and consent of the Senate, appoint three Directors, on the part of the Commonwealth, in this institution, who shall hold their office until their successors may be duly appointed and qualified; and if any Director, thus appointed, shall vacate his office by death, removal from the State, resignation, or otherwise, the Governor is hereby empowered to fill the vacancy; and should said Bank go into operation during the recess of the Senate, the Governor shall, as in other cases, make a *pro tempore* appointment: provided, nevertheless, that in lieu of paying the subscription authorized on the part of the State, in bonds or scrip, as herein provided, the said subscription may be paid in gold or silver; and the Governor is hereby authorized to execute and sell the bonds or scrip of this Commonwealth, redeemable at the pleasure of the State after twenty years, and within five years after the expiration of the charter, for the payment of the several instalments on the part of the State: provided the said scrip can be sold at for not less than its nominal amount, at a rate of interest not exceeding six per cent. per annum; and in the event of such sale, it shall be the duty of the Bank to pay the interest on said scrip, in the same manner as is provided by this act, should said subscription be paid in said scrip: and provided, that the State stock shall not be paid in cash or scrip, faster than the payments are made by the other stockholders.

Bank may
sell & transfer
State bonds &
upon what
terms.

Governor to
nominate three
directors on the
part of State,
and fill vacan-
cies. Gov. may
sell bonds or
scrip to pay
stock.

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When and
upon what con-
ditions Bank
may commence
business.

SEC. 36. That so soon as two hundred thousand dollars of capital stock shall have been paid in by individuals, companies, or corporations, in gold or silver, the President and Directors shall cause the Governor of this Commonwealth to be notified thereof, who is hereby authorized to appoint some suitable person to count the money so paid in as capital stock, who shall take the oath of the President and not less than six of the Directors, that the same has been paid in as stock, *bona fide*, and make due return thereof to him; and on such appearing to be the fact, the Governor is authorized to issue his proclamation, that the amount hereby required to be paid in, and in the funds hereby required, has been paid, and the said Bank is authorized to commence operations as a banking institution; and from and after the first proclamation, it shall be lawful for said Bank to commence business.

No person to
hold more than
500 shares.

SEC. 37. That no individual, company, or corporation, shall be allowed to hold more than five hundred shares of the capital stock of said Bank, in their own names, or the names of others in trust for them; and all stock that any individual, company or corporation shall take or hold contrary to this provision, shall be forfeited to the Bank, for the benefit of the other stockholders; and no individual, company, or corporation, shall be allowed, in person or by proxy, to vote at the first election of Directors, on any stock which may stand in his, her, or their names, without first making oath that the stock, *bona fide*, belongs to him, her, or them, and is not held in trust for others.

No person
shall vote who
is not a citizen
of U. S.

SEC. 38. That if any stockholder or stockholders in said Bank, who shall not be a citizen or citizens of the United States, shall vote, or authorize any person to vote at the election of directors for said Bank, upon the stock held by such person or persons not a citizen or citizens of the United States, or which may be held by others for his, her or their use and benefit, such stock, so held, and which may have been voted upon, or authorized to be voted upon, at any of the elections for directors of said Bank, shall be forfeited by such stockholder or stockholders to, and for the use of said Bank.

Bonds or scrip
may be trans-
ferred.

SEC. 39. That the President and Directors of the principal Bank, shall have power and authority to purchase and transfer any scrip or bonds which may be issued by the State, not exceeding one million of dollars.

* Books may
be kept open for
transfers.

SEC. 40. That the President and Directors of the principal Bank may, under the direction of such agent or agents, as they may think proper to appoint, keep open books for the transfer of the stock of said Bank, at such places; and under such regulations and by-laws, as they may deem proper.

Quarterly re-
ports to be
made and in
what manner.

SEC. 41. That the President and Directors of the principal Bank, shall cause their cashier to make quarterly reports, on the first day of January, April, July, and October, in alphabetical order, of all the debts due said Bank, setting out the amount due by each individual, with the names of the endor-

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sers, and a note of the other security, the date of the notes, or bills, and when payable; and they shall cause the cashiers of the branches to make a like complete memorandum, in alphabetical order, of all the debts due at the several branches, by each individual, with the name of the endorser and other security, and the date of the notes and bills, and when payable; one copy of which shall be retained at the branch, another copy shall be transmitted to the principal Bank, and these memorandums shall, at all times, be open to the examination of the President and Directors of the principal Bank and branches.

SEC. 42. That said Bank shall not make any loan of money, or discount any note or bill on the pledge of the stock of said Bank, in any case whatever; and no stockholder shall be allowed to pay any debt he may owe to the Bank, by the surrender of the stock of the Bank, until all the notes of the Bank shall have been redeemed, and all the debts of the Bank paid; and stockholders who shall become indebted to the Bank, shall be compelled to pay their debts, in all respects, as other persons dealing with the Bank; nor shall any stockholder be allowed to make payment of the shares of stock held by him, by means of a loan or loans obtained from said Bank.

Loans not to be made on pledge of stock.

SEC. 43. That the real estate purchased by said Bank under judgments or decrees in favor of others, where it shall be necessary to purchase the estate in order to secure the payment of some debt due the branch, and the real estate, taken in payment of debts due the Bank, shall be sold within five years next after the estate shall have been fully acquired, and the possession taken or recovered; and on failure to sell the estate within five years, the same shall be vested in the Commonwealth without office found.

Real estate to be sold within 5 years from time acquired.

SEC. 44. That it shall be the duty of the President and Directors of said Bank, to locate the branches, so soon as the subscription and payment of the stock will justify their doing so. The Legislature reserve the right to enforce the establishment of the branches, upon the terms and in the manner prescribed by this act.

When branches to be located.

SEC. 45. That it shall be the duty of the President and Directors of said Bank, if the whole stock shall not be sold before the organization of the principal Bank, to cause books to be opened, at some suitable place or places, in that section of the State where they are about to establish a branch, and allow to the subscribers of stock at those places, the like terms, as if they had been original subscribers.

Books may be op'nd where a branch is to be established.

SEC. 46. That the bills or notes of said corporation, made payable to bearer, shall be receivable in all payments to the State, and on account of county levies, so long as it shall redeem its notes in gold or silver on demand, unless otherwise directed by law; and that the Legislature reserves the right to increase the capital stock of said Bank to three millions of dollars, at any time hereafter.

Notes to be rece'd in payments to State.

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Districts in which the principal bank shall be located, and also a branch.

Districts in which branches shall be located.

Sixth branch north of Green river.

Sixth branch may be withdrawn.

District composed of Adair e'ty, & others, to raise stock for branch.

Amount of capital to be raised, & how raised.

SEC. 47. That the President and Directors of the Southern Bank of Kentucky, shall locate the principal Bank within the district composed of the counties of Livingston, Caldwell, Trigg, Christian, Todd, Logan, Butler, Edmondson, Warren, Allen, Simpson, Monroe, Barren and Hart; and they shall locate one branch of said Bank within the same district, but neither the Mother Bank, nor the said branch, shall be located at either of the places where a branch of the Bank of Kentucky is established. They shall also locate a branch of said Bank in a district composed of the counties of Hickman, Calloway, Graves and McCracken; and a branch in a district composed of the counties of Henderson, Union, Hopkins and Muhlenburg; and a branch of said bank in a district composed of the counties of Adair, Cumberland, Clinton, Russell, Casey, Pulaski, Rockcastle, Whitley and Wayne; and a branch in a district composed of the counties of Hardin, Meade, Breckinridge, Grayson, Hancock, Ohio and Daviess. The sixth branch on the north of Green river, they shall be under no obligation to locate, and may locate and establish the same at such time and place as they may deem most advantageous to the institution: provided, that the sixth branch shall not have more than three hundred thousand dollars of capital, and shall not go into operation until subscriptions are obtained for all the stock in the Bank; and that no branch shall go into operation, in the first instance, with less than fifty thousand dollars paid in: provided, further, that if the directory of the Bank shall find that the location of the said sixth branch shall, in their opinion, prove prejudicial to the interest of the institution, that they shall have power, at any time, to withdraw said branch altogether, or locate it elsewhere at their discretion.

SEC. 48. That the branch in the district composed of the counties of Adair, Cumberland, Clinton, Russell, Casey, Pulaski, Rockcastle, Whitley and Wayne, shall have no part of the two millions named in the preceeding sections, but the same shall be for the establishment of the principal Bank and the other branches; and said branch shall be established out of subscriptions to be raised for that purpose; and books shall be opened at as many points in, or out of said district, as the commissioners may direct; and whenever not less than seventy five thousand dollars shall be subscribed by individuals, companies and corporations, and not more than one hundred and fifty thousand dollars, application shall be made to the Governor, who shall subscribe a like sum on behalf of the Commonwealth, so that the branch shall not go into operation with less than one hundred and fifty thousand dollars, nor with more than three hundred thousand dollars; and the stock of the Commonwealth shall be paid for, in this branch, in the same way as the stock in the principal Bank; and the stock of this branch shall be held as so much out of the additional million authorized to be added to the capital of the Bank by the forty sixth section: provided, that if more stock shall be subscribed out

of said district, than what will be sufficient to put the principal Bank and the other branches in operation, the excess may and shall be applied to the establishment of the branch in this district.

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SEC. 49. That it shall be lawful for said Bank to establish a seventh branch, north of the Kentucky river, out of the additional million authorized to be added by the forty sixth section, but there shall be no obligation to establish the same: and, provided, if they should establish such a branch, the capital shall not be less nor more than three hundred thousand dollars, and all subscribed, and one sixth paid in before the branch shall go into operation: provided, that said branch shall not be located at any city or town on the north side of Kentucky, where any Bank or branch of any Bank is situated.

Branch may be established north of Ky. river on certain conditions.

Proviso.

Approved February 20, 1839.

CHAP. 1303.—AN ACT for the benefit of the Clerks of this Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That such of the Clerks of this Commonwealth as have not settled their accounts for the year eighteen hundred and thirty eight, be, and they are hereby, allowed further time until the first day of July, eighteen hundred and thirty nine, to settle with the Auditor of Public Accounts, provided that any motion may be made against them at the August term of the General Court without notice.

Approved February 20, 1839.

CHAP. 1304.—AN ACT to allow an additional Justice of the Peace in Carroll county

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that a Justice of the Peace is much needed in the town of Carrollton, in Carroll county—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there is hereby allowed one additional Justice of the Peace to said county, to be appointed as prescribed by the Constitution of this State.

Approved February 20, 1839.

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CHAP. 1305.—AN ACT to allow an additional Justice of the Peace in the counties of Pendleton and Warren.

WHEREAS, it is represented to the present General Assembly that a Justice of the Peace is much needed in that part of Pendleton county between the East and Middle forks of Grassy creek—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there shall be and is hereby allowed an additional Justice of the Peace in said county, to be appointed as prescribed by the Constitution of this State.

SEC. 2. *Be it further enacted*, That the county of Warren be allowed one additional Justice of the Peace.

Approved February 20, 1839

CHAP. 1306.—AN ACT to extend the August term of the Anderson Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter the August term of the Anderson Circuit Court shall commence on the third Monday in August, and continue twelve juridical days, if the business shall require it.

Approved February 20, 1839.

CHAP. 1307.—AN ACT to change the name of Eloisa Rook to that of Eloim Marshall.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the name of Eloisa Rook be, and the same is hereby, changed to that of Eloim Marshall.

Approved February 20, 1839.

CHAP. 1308.—AN ACT changing the terms of the Fayette Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the February term of the Fayette Circuit Court shall, hereafter, only be held for the trial of chancery and Commonwealth's causes; that the July term of said court

be, and the same is hereby, abolished; and that the June and September terms continue five weeks each, if necessary for completing the business of the court. 1839

Approved February 20, 1839.

CHAP. 1309.—AN ACT allowing an additional Justice of the Peace to the county of Mercer.

WHEREAS, it is represented that the citizens of Mercer county, residing in and adjacent to the town of Salvisa, are much aggrieved for want of a Justice of the Peace, to reside in or near said town—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That one additional Justice of the Peace be allowed to said county.

Approved February 20, 1839.

CHAP. 1310.—AN ACT to continue in force an act for the benefit of the holders headright certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act, entitled, an act for the benefit of the holders of headright certificates, approved January twenty first, eighteen hundred and thirty seven, shall be, and the same is hereby, continued in force until the first day of August, in the year one thousand eight hundred and forty, and no longer.

Approved February 20, 1839.

CHAP. 1311.—AN ACT to regulate the ninth and twelfth Judicial Districts.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That from and after the first day of October, eighteen hundred and thirty nine, the county of Garrard shall be added to, and compose a part of, the ninth Judicial District, and the county of Lincoln shall be added to, and compose a part of, the twelfth Judicial District.

SEC. 2. That the spring term of the Mercer Circuit Court, in the year eighteen hundred and thirty nine, shall commence on the first Monday in April; and the Clerk of the said court shall docket the pleas of the Commonwealth, and other suits

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in said court, in the manner required by the general law regulating proceedings in the Circuit Courts; and there shall be no chancery term held in the county of Mercer in the month of March, eighteen hundred and thirty nine, for the trial of chancery suits and criminal cases; but said suits shall be tried at the regular term, commencing on the first Monday in April: provided, that nothing in this act shall be so construed as to make any other change in said court, except in the chancery term required to be held in the month of March, eighteen hundred and thirty nine.

Approved February 20, 1839.

CHAP. 1312.—AN ACT to authorize the County Court of Woodford to convey to Trustees a portion of the public square in the town of Versailles.

County court may convey part of public square to trustees for certain purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for the County Court of Woodford county, to cede and convey, by a commissioner or commissioners, to be appointed by them for that purpose, so much of the public square, in the town of Versailles, as may be necessary for the construction of a Lodge and Town Hall, under such restrictions and reservations as the said court shall think proper to impose, to such person or persons in trust as shall be appointed by Land Mark Lodge, No. 41, and Webb Royal Arch Chapter, No. 6, to receive said conveyance, for the use and benefit of said Lodge and Chapter, so long as they, or either of them, shall continue in existence.

Trustees may be removed & others selected.

SEC. 2. That it shall and may be lawful for the said Lodge and Chapter to remove such Trustee or Trustees at their pleasure, and to select others in their stead; and the appointment and removal of such Trustee or Trustees, shall be certified to the said court by the Secretaries of said Lodge and Chapter, and entered upon their order book; and the legal title to said lot and building, when constructed, shall be vested in said Trustee or Trustees forever, for the use and benefit of said Lodge and Chapter.

Trustee may purchase any other lot if the court shall not convey part of public square.

SEC. 3. That if the said court shall not deem it expedient to cede and convey to said Trustee or Trustees, so appointed as aforesaid, any part of the public square in the town aforesaid, that it shall and may be lawful for said Trustee or Trustees to purchase any lot or lots within the limits of said town, not to exceed one acre of ground, and to receive a deed of conveyance therefor, for the purposes and uses aforesaid; and that the appointment or removal of such Trustee or Trustees shall be certified and recorded as provided for in the second section of this act.

Approved February 20, 1839.

CHAP. 1313.—AN ACT to authorize the settlement of the accounts of Worden Pope, late Clerk of the Jefferson County and Circuit Courts.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, authorized to settle with the administrators of Worden Pope, late Clerk of the Jefferson County and Circuit Courts, on equitable principles as though judgment had not been entered against him.

SEC. 2. That the administrators of said Clerk are hereby authorized to make out and list for collection, all fee bills due said Clerk, and have the same authority to collect the same as he would have were he living, and had proceeded to collect them in due time.

Approved February 20, 1839.

CHAP. 1314.—AN ACT for the benefit of the Sheriff of Floyd county.

WHEREAS, it is represented to this General Assembly, that Andrew Rule, Sheriff of Floyd county, did attend at Frankfort, in the year eighteen hundred and thirty eight, for the purpose of depositing with the Secretary of State, a list of the names of the voters of said county who voted for a convention to revise the Constitution of this State; and it having been represented that the poll books, or a part thereof, had been lost, which prevented him from fully complying with the provisions of the law on this subject—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, directed to issue his warrant on the Treasury, in favor of said Sheriff, for such amount as he would have been entitled to had he fully complied with the laws of this State on this subject: provided that he shall, or some one for him, deposite an affidavit with said Auditor, that he did attend at Frankfort as above, and that he was prevented from complying with the laws of the State in consequence of the loss of the poll books of said county, or a part thereof, and that such loss was not through his or his deputies default or neglect.

Approved February 20, 1839.

CHAP. 1315.—AN ACT allowing an additional Justice of the Peace to the county of Logan, and an additional Constable to Hopkins county.

WHEREAS, it is represented to the General Assembly, that the town of Adairsville, and that part of Logan county adja-

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Justice to Logan.

Constable to Hopkins.

cent thereto, and for a distance of several miles around, is without any Justice of the Peace, in consequence of which the citizens of a considerable portion of the most densely populated and wealthy section of said county, are made to suffer much injustice and great inconvenience—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That one additional Justice of the Peace is hereby allowed to said county of Logan.

SEC. 2. That the County Court of Hopkins (a majority of its members concurring therein,) shall have power to appoint one additional Constable for said county, who shall reside between Elk and Otter creeks, and east of the road leading from Madisonville and Henderson.

Approved February 20, 1839.

CHAP. 1316.—AN ACT for the benefit of Robert G. Lewis.

WHEREAS, it is represented to the present General Assembly, that Robert G. Lewis, a Justice of the Peace in the county of Fleming, hath lately had his dwelling house destroyed by fire, together with all his furniture, books, papers, and about eight hundred dollars in cash, leaving him without the means of procuring such books as are necessary to enable him effectually to discharge the duties of his office—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Secretary of State furnish to said Lewis, such books as Justices of the Peace are entitled to under the existing laws of this Commonwealth.

Approved February 20, 1839.

CHAP. 1317.—AN ACT for the benefit of Joseph McDowell.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, authorized and directed to issue his warrant on the Treasury for fourteen dollars and forty cents, in favor of Joseph McDowell, to be paid out of any money in the Treasury not otherwise appropriated.

Approved February 20, 1839.

CHAP. 1318.—AN ACT to authorize the election of Trustees of the town of Port Oliver, in the county of Allen.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall and may be lawful for Trustees elec'd

the free white male inhabitants, in the town of Port Oliver, over twenty one years of age, to meet at the house of John F. Gaines, in said town, on the first Monday in May next, and on the same day in each year thereafter, and elect three fit persons residing in or within one half mile thereof, as Trustees of said town; who, after being sworn to discharge faithfully the duties of Trustees of said town, shall be authorized to make such regulations for the government of said town, as are usual for the government of such towns, and not inconsistent with the constitution and laws of this State.

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May make rules &c. for government of the town.

SEC. 2. That the said Trustees shall have power and authority to convey the title to any lot, or lots, in said town, when the present owners thereof shall require them to do so, and they shall have power to convey any lot, or lots, which may have been heretofore sold, and the title thereof not conveyed: provided, however, that the person, or persons, applying for the same, shall exhibit satisfactory proof that the purchase money has been paid.

May convey lots, &c.

Approved February 20, 1839.

CHAP. 1319.—AN ACT to amend an act entitled, an act to regulate the election of Trustees for the town of Scottsville.

WHEREAS, doubts have arisen whether the citizens of Scottsville should elect Trustees of said town under the act to which this is an amendment, or under a general law subsequently passed, and whether it is the duty of said Trustees to work the streets of said town—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Clerk of the County Court of Allen county, shall, on the first Monday in March next, after the passage of this act, hold an election in the court house of said county, for the purpose of electing five Trustees for said town, who shall be free white males over the age of twenty one years, and citizens of said town; at which election all the free white male citizens of said town shall be entitled to vote for said Trustees; and all elections for Trustees of said town, after the first election herein provided for, shall, on the first Monday of March, be held, and in the same manner annually, during the continuance of this act; and should any vacancy occur in said Trustees, after they shall be elected, and before the next annual election, said Trustees shall have power to fill the same; and the person, or persons, so appointed, shall continue in office until his or their successors shall be appointed by annual election; a certificate of said election shall be made by said Clerk, and delivered to said Trustees, who shall record the same in their office; and should said Clerk at any time fail to hold said election, on the day

When and how trustees are to be elec'd.

Trustees to be elected annually. Vacancies, how filled.

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herein mentioned, then, as soon thereafter as practicable, which election shall be as valid as if made on said first Monday in March.

Trustees to
work on and
keep streets in
good order.

Sec. 2. That it shall be the duty of said Trustees to cause to be worked and kept in good order, the streets, one half mile each way from the court house of said town, either by requiring all the male citizens of said town, of the age of sixteen and under the age of fifty years, to work thereon, or by levying a tax, as provided for in the above recited act.

May tax hi-
red negroes.

Sec. 3. That said Trustees shall have power to levy and collect tax by virtue of said act, to which this an amendment, at the same rate and under the same regulations, upon all hired slaves in said town, and which shall be paid by the person or their agent having said hired negroes or slaves in their employment.

May sink
well on public
square.

Sec. 4. That instead of said Trustees sinking a well on the north east corner or angle of the public square in said town, as provided for in said original act, they are hereby permitted to sink and make a well upon any part of said public square: provided the same will not interfere with, or injure, any public or private property.

Approved February 20, 1839.

CHAP. 1330.—AN ACT to provide for the appointment of Attorneys for the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act entitled an act to continue in force the law for the appointment of Commonwealth's Attorneys, approved February seventeenth, eighteen hundred and thirty seven, be, and the same is hereby, continued in force until the first day of December next.

Approved February 20, 1839.

CHAP. 1331.—AN ACT to allow additional Justices of the Peace and Constables to several counties.

WHEREAS, it is represented that the citizens of Wyoming, in Bath county, labor under many inconveniences for the want of a Justice of the Peace, and Constable, residing in said town—for remedy whereof,

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there shall be allowed an additional Justice of the Peace to the county of Bath, and one

Justice to Bath

additional Constable to said county, which said Constable shall reside in the town of Wyoming.

SEC. 2. That there shall be, and is hereby, allowed one additional Justice of the Peace to the county of Graves.

SEC. 3. That there shall be, and is hereby, allowed an additional Constable to the county of Hickman, who shall reside between H. B. French's and where the State line first strikes the Mississippi; and that an additional Constable is allowed to the county of Graves, who shall reside in township four, range one, east, in said county; and, also, one additional Justice of the Peace to the county of Lawrence, who may reside on Rockcastle creek.

Approved February 20, 1839.

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Justice to
Graves.

Constable to
Hickman.

Constable to
Graves.

CHAP. 1322.—AN ACT for the benefit of the heirs and representatives of Joseph Walker.

WHEREAS, it is represented to the present General Assembly, that Joseph Walker died many years since in Shelby county, having first made and published his last will and testament, which was duly admitted to record in that county, by which he authorized his executors and executrix to sell a tract of land which he owned, lying in said county; which was afterwards sold, in accordance with the provisions of said will, to Masterson Ogden, by executory contract, out of which grew a protracted law suit between the representatives of said Walker and said Ogden, and that during the pendency of the same said land came into the possession of John M. Ogden, by contract, or gift, from his father, the said Masterson, with whom James W. Rice, the authorized agent of Walker's representatives, made a contract of compromise of the matters in controversy in said suit, by which the title held by said Walker was to be conveyed to said John M. Ogden; and that owing to the death of one of said executors, the title of said Walker can not be conveyed to said Ogden, as stipulated for in said contract of compromise—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for Polly Rice, late Polly Walker, surviving executrix of said Joseph Walker, (or her executor or administrator, in case of her death,) to exhibit a bill in Chancery in the Bourbon Circuit Court, (either alone or in conjunction with the adult devisees of said Walker, making the other devisees and heirs defendants,) setting forth the facts of the case, and said contract of compromise; and if said court shall be satisfied that said compromise was beneficial to the devisees and heirs of said decedent, then it may confirm the same, and appoint a Commissioner

Bill in Ch'y.
may be filed &
for what purpose.

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to make a conveyance to said John M. Ogden, in accordance therewith, having first required said executrix or her representative, as the case may be, to execute bond, with sufficient surety or sureties, payable to the devisees and heirs of said Walker, in such penalty as said court may fix, conditioned for the proper distribution of the assets that may be received under said compromise; and if the court shall deem the contract such as ought not to be enforced in equity, and that it would be to the interest of the infants to decree sale of their interest, it shall be lawful for the court to decree the same, and cause the proceeds to be paid over in the same way as if the compromise were confirmed under this act, first, requiring bond and good surety from the executor, and make all other proper orders and decrees in the case.

Approved February 20, 1839.

CHAP. 1323.—AN ACT for the benefit of James R. Wright, guardian of Eliza Jane Curle, legalizing the sale of a slave made by him.

WHEREAS, it is represented to the present General Assembly, that Clifton Rhodes, the former guardian of Eliza Jane Curle and Archibald Wallace Curle, children of Jefferson Curle, deceased, did, by the advice of medical men, remove a slave by the name of Sampson, belonging to the estate of said decedent, that was believed to have the disease called the negro consumption, to the State of Mississippi, for the purpose of improving his health in a southern climate; in which slave, Mary Ann Curle, the widow of said decedent, was entitled to dower: and, whereas, James R. Wright, who has intermarried with said Mary Ann, and who is also the present guardian of said Eliza Jane, the only child of said decedent now living, (said Archibald Wallace having departed this life in infancy,) sold said slave during the last fall in Mississippi, to James & Rhodes, and William Estill, for the sum of eight hundred and seventy five dollars; and has petitioned the present Legislature for the passage of a law legalizing said sale, so far as the interest of said Eliza Jane is concerned—therefore,

Bill in Ch'y.
may be filed &
for what purpose.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for James R. Wright and his wife to file their bill in Chancery, in the proper court, against Eliza Jane Curle, and alledge that, in right of his wife, he was entitled to an interest in said slave, and to dower in the residue; and that under the circumstances alleged in the preamble the slave was sold; and it shall be lawful for the court, if the sale of said slave shall appear to be advantageous to the infant, to decree a confirmation of the sale, and a distribution of the proceeds on equitable principles, and cause

the said Wright, as guardian of the said Eliza Jane Curle, to give bond and good surety, to account for, and pay over, the share of the said Eliza, with interest, to him or her legal representatives, when entitled to receive the same.

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Approved February 20, 1839.

CHAP. 1324.—AN ACT for the benefit of Noah C. Summers, and others.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts, be, and he is hereby, authorized and required to allow in a settlement with Noah C. Summers, the Clerk of the Bullitt Circuit Court, the amount of money he has paid out as Trustee of the Jury fund: provided, the same appears to have been allowed by said court, without a formal list being made out and returned to the Auditor's office as required by law.

Summers,
clerk of Bullitt.

SEC. 2. That the said Auditor allow to George F. Hatcher, Clerk of the Lawrence Circuit Court, in his settlement for jury fees and taxes due in the year one thousand eight hundred and thirty seven, a credit for the amount as certified without requiring said Clerk to file a duplicate list thereof.

Hatcher, cl^k
of Lawrence.

SEC. 3. That further time be allowed to Robert D. Callihan, Clerk of the Pike Circuit Court, and to Joseph R. Ward, Clerk of the Carter County Court, until the first day of June next, to pay into the public treasury the revenue due from them, respectively, for the year eighteen hundred and thirty eight: provided, that their securities consent, in writing, to the indulgence herein given.

Callihan cl^k
of Pike, and
Ward clerk of
Carter.

SEC. 4. That the Auditor of Public Accounts be authorized to issue his warrant to Rice Maxey for the amount certified by said Maxey, Clerk of the Clinton Circuit Court, as Trustee of the Jury fund.

Maxey, cl^k
of Monroe.

SEC. 5. That the provisions of the first section of this act shall be applicable to the Clerk of the Fleming Circuit Court, and the Clerk of the Graves Circuit Court. That the Clerk of the Montgomery Circuit and County Court, and the Clerk of the Fleming County Court, have until the first day of July next to pay into the public treasury the revenue due from them for the year eighteen hundred and thirty eight. That the Clerk of the Warren County and Circuit Court have until the first day of July next, to make his report to, and settle his account with the Auditor of Public Accounts for moneys received by him in the year eighteen and thirty eight.

Cl^ks of Flem
ing, Graves,
Montgomery &
Warren.

Approved February 20, 1839.

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CHAP. 1325.—AN ACT to authorize the Scott and Anderson County Courts to impose an additional county levy.

Scott.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the County Court of Scott county shall be, and they are hereby, authorized to levy an additional county levy on the titheables of said county at their April or May terms next, any sum not exceeding fifty cents on each titheable of said county, to enable them to pay off the claims against said county, any law to the contrary notwithstanding; and the Sheriff or County Collector of said county, when said levy may be so made, shall be required, and he is hereby authorized to collect the same during the present year, as other levies are collectable.

Anderson.

SEC. 2. That it shall be lawful for the County Court of Anderson county, at the March or April term of said Court, in the year eighteen hundred and thirty nine, to increase or lay an additional levy upon the property or persons now subject to county levy in said county: provided, that the amount authorized to be levied, by this act, shall not exceed fifty cents on each tithe.

Approved February 20, 1839.

CHAP. 1326.—AN ACT to amend the charter of the Logan, Todd and Christian Turnpike Road Company.

Road may be extended to Bowlinggreen & to the Miss. river.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the Logan, Todd and Christian Turnpike Road Company, to extend their turnpike road from Russellville to Bowlinggreen; they shall also be authorized and are hereby vested with full powers and authority to branch or extend their turnpike road, from some suitable and convenient point on the same, to some eligible and convenient point on the Mississippi river: provided, said company shall deem it to their interest, and that of the public, to make such extension or extensions of their road as hereby authorized.

If the road be extended company to possess same power &c over the whole road.

SEC. 2. That should said company deem it expedient to extend or branch their road, as authorized by the provisions of the first section of this act, said company shall then and in that event have all the powers, rights, tolls, privileges and immunities, and subjected to the same limitations and restrictions as conferred and imposed upon said company agreeably to the provisions of an act entitled, an act to incorporate the Logan, Todd and Christian Turnpike Road Company, and for other purposes, approved February sixteen, eighteen hundred and

thirty eight; and said company shall further be vested with full powers to increase their capital stock, from time to time, so as to enable them to finish and complete the road, which said company is authorized to construct, provided that James T. Briggs, Joseph Covington, Isaac Smith, Thomas McDavid, Alexander Loving, Fayette Hines, John Porter, James Kelly and Elias Simpson, be, and they are hereby, continued the Board of Internal Improvement for Warren county; and that they be, and are hereby, vested with all the powers, authorities, rights and privileges, with which they were vested, by the act, approved February twenty three, eighteen hundred and thirty five, entitled, an act to provide for making a road from Bowlinggreen, by way of South Union, Russellville and Elkton, to Hopkinsville: provided further, that W. I. Morton, Jefferson Haden, William Haden, Jr., Joseph Morton, Jacob Yost, and William McCutchen, be, and the same are hereby, constituted and appointed Commissioners, and are vested with full power and authority to open books and receive subscriptions of stock in said road, in the county of Logan, in addition to those heretofore appointed for that purpose.

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Board in
Warren county
continued.

Com'rs to o-
pen books in
Logan county.

Approved February 26, 1839.

CHAP. 1327.—AN ACT to regulate the administration and settlement of estates.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That, hereafter, all debts shall be of equal dignity in the administration of estates, and shall be paid as hereafter declared rateably, in proportion to their amounts, by the executor or administrator, when the personal effects are not sufficient for the payment of the debts against the estate of the testator or intestate; and should more than the rateable share of any debt be paid, the executor or administrator shall only receive credit, in the settlement of his accounts, for its proper proportion.

All debts
shall be of
equal dignity
and paid rate-
ably.

SEC. 2. That it shall and may be lawful for any executor or administrator, where he shall be satisfied, and so state in his bill, that the estate is not sufficient to pay all the debts of the decedent, to file a bill in the court of chancery of the county where the administration or probate was granted against the heirs, devisees, legatees and distributees of the decedent, and the creditors, so far as known; and he shall set out in the bill, as near as he can, the particular items and amount of the whole estate, real, personal and mixed; and at the first term of the court, after filing the bill, or at the term at which it is filed, the court shall refer the bill to a master commissioner, to ascertain and report the estate of every description, and to ascertain and report the debts against the estate; and a day

Bill in ch'ry
to be filed and
the proceedings
thereon.

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shall be fixed by the court, on or before which all the debtors shall be required to prove their debts before the master, of which reasonable notice shall be given in a newspaper, and in such other way as the court may deem reasonable. The master shall take his proofs, as to the estate and debts, in writing, and report the same to the court; and debts barred by the statute of limitations shall be so declared, when the statute is relied on by the executor or administrator, or heirs or devisees, and the court may order the debts proved, to be paid rateably in proportion to the personal assets and slaves.

When personal estate is insufficient to pay the debts, real estate to be sold.

Prior liens.

Proviso.

SEC. 3. That should the personal estate and slaves prove insufficient for the discharge of the debts, the court shall proceed, process being served upon the heirs and devisees, or such of them as may be necessary parties, to decree a sale of so much of the real estate as may be necessary for that purpose, upon reasonable credits, to be fixed by the court, not exceeding one year, unless the creditors consent to a longer credit; and the proceeds of such sale shall be paid to the creditors in like manner as above prescribed, for the payment out of the personal estate and slaves: provided, that when any estate is covered by *bona fide* liens, whether by execution or otherwise, giving any creditor or creditors a priority on such property, that the proceeds thereof shall be first applied to the discharge of such prior liens, and the residue only shall be subject to a *pro rata* division amongst the creditors not secured by lien: and, provided, that when a creditor has a lien which is not sufficient to discharge the debt, he shall not be entitled to any portion of the residue of the estate, until all the creditors, not having liens, shall have received a sum equal, *pro rata*, with such lien creditor.

Claims may be contested.

Burial expenses & costs of administration first paid.

Also debts due to wards, &c. to be paid before other debts.

SEC. 4. That it shall be lawful for the executor or administrator, or any party to the proceeding, to contest the claim of any one seeking to prove a debt, and exceptions may be taken to the report of the master, whether for or against a claim, and the same shall be determined by the court, or the court may cause an issue to be made and tried by a jury, or direct suit to be brought at law, and the cause tried by a jury, in accordance with the Constitution; and the court may proceed at once to cause the uncontested claims to be paid, reserving only the rateable proportion of the contested claim or claims: provided, that the burial expenses, and costs and charges of the administration of the estate, and costs of suits, under this act, shall be paid in full, before any *pro rata* distribution shall be made, or a sufficient sum shall be retained for that purpose: and, provided, further, that the executors of a Guardian, of a committee, or of any other person who shall have been chargeable with, or accountable for, the estate of a ward, an idiot or lunatic, or the estate of a dead person, committed to the testator or intestate by a court of record, shall first pay so much as shall be due from the testator or intestate to the ward, idiot or lunatic, or to the legatee or persons entitled to the distribu-

tion in full, before any proper debt of their testator or intestate shall be paid in whole or in part, and the court shall so direct.

Sec. 5. That the executor or administrator shall not be the master appointed under the second section of this act, and the court shall have full power and authority to enjoin proceedings at law, and to take all necessary and proper orders for carrying this act into effect, and for the preservation and rendering productive the assets during the pendency of the proceeding; and any one or more creditors, heirs, devisees, legatees, or distributees, may file a bill against the executor or administrator, and the other creditors, heirs, devisees, legatees or distributees, for a settlement of the estate, and thereupon the same or similar orders and proceedings shall be had as if the bill had been by an executor or administrator; and the holders of fraudulent conveyances from the decedent may be brought before the court, and the property or proceeds thereof made subject to the payment of debts on equitable principles.

Sec. 6. That it shall be no objection to the referring a bill filed under this act to the Master, that the process has not been served; and it shall be the duty of the Master to take proof of all claims offered, whether the person offering the claim is named a party in the bill or not; and when any such claim is allowed by the commissioner, and not contested, the court may order the same to be paid, *pro rata*, with the other uncontested claims; but no contested claim shall be held finally rejected, unless the person is named a defendant and made a party before the order of rejection; and all persons, whose claims shall have been contested, and shall not have been allowed by the Master, and also all persons whose claims shall have been allowed by the Master; and excepted to by the administrator, executor, or any creditor, shall be entered of record as defendants to the suit; and when the Master shall have reported, and there shall be claims which were not asserted and proved before the Master, the claimant may file his affidavit, and the evidence of his claim at any time before distribution; and the court shall retain for such claims, in the same way as for contested claims, and may distribute the balance amongst the claims allowed and not contested, and may refer such claims to the Master, to take the proper and necessary proof and make report.

Sec. 7. That upon the payment of all the debts proven as aforesaid, the court shall cause the residue of the personal estate and slaves, if any there be, to be paid and delivered over to the person or persons entitled to the same by devise, or the laws of distribution or descent; and the real estate, if any, to be partitioned in like manner, after which the executor or administrator shall be exempt from all liability for all assets so paid or delivered, reserving however, to any creditor who may afterwards appear, the right of pursuing the property or assets in the hands of the heir, devisee, legatee, or distributee,

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The court may enjoin proceedings at law and take all proper orders to carry this act into effect.

Creditors, &c. may file bill.

Fraudulent conveyances may be brought before court.

Proceedings before the master com'r.

Upon payment of the debts, property to be distributed to the persons entitled thereto.

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and holding him or them liable therefor, provided suit is instituted within the time prescribed by law for the limitation of such actions.

Amended bill
&c.

SEC. 8. That it shall be lawful for the complainant or complainants, in any bill authorized in this act, to file amended or supplemental bill or bills of revivor in the Clerk's office in vacation, and for any defendant or defendants to file their answers with the Clerk in vacation; and it shall be the duty of the clerk to receive and file the same, and endorse thereon, when filed, and at the next term note the same on record; and it shall also be the duty of the Clerk, when there are infant defendants who have been served with process, to file an answer for them as their guardian *ad litem*; and in the answer, in general terms, to admit all that is for the advantage, and to deny all that is to the disadvantage of the infant, and to endorse thereon when filed, and at the next term to note the same on record: provided, that whenever it shall be made manifest to the court that the interest of the infant requires another guardian *ad litem*; and a different answer, another shall be appointed, and another answer permitted and required.

Answers of
infants.

Standing
master com'r.
to be appoint'd

SEC. 9. That the several Chancery Courts shall appoint a standing Master Commissioner for the purposes of this act, and so soon as the process is served, or the complainant shall require it, it shall be the duty of the Clerk, in his office, to enter an order referring the case to such Master Commissioner, for the purposes it is provided the court may do in the second section of this act, and at the next term he shall note the same on record.

Report of the
commissioner.

SEC. 10. That it shall be the duty of the Master Commissioner to make out his report, as early after the reference as it can be fully and fairly done, and so soon as made out, to file the same with the Clerk, who shall endorse thereon when filed, and make an order that time is allowed for exceptions until the third day of the next term, and at the next term he shall note the same on record: provided, that the court may give further time for exceptions, and on affidavit, specifying an objection to any one or more items, may give time to falsify by proof.

Com'r may
examine the
parties.

SEC. 11. That it shall be lawful for the Master Commissioner, at his own instance, or that of any party interested in the estate, to examine the executor or administrator, and any of the heirs, devisees, legatees, or distributees, or any of the creditors, by written interrogatories, touching the amount of the estate and the claims against the same, or any matter connected with them, to which written responses shall be made; but no claim or demand against any estate shall be allowed, unless sustained by sufficient evidence other than that of the claimant, and the master shall have authority to issue subpoenas to bring such parties and witnesses before him, and to administer the necessary oaths or affirmations, and the same power to punish for contempt to his process, or contempt

Issue sub-
poenas, &c.

whilst under examination before him by refusing to testify or otherwise, as the Circuit Courts have.

SEC. 12. That all amended and supplemental bills, and bills of revivor, and answers to bills under this act, in the Louisville Chancery Court, shall be filed in the court, and all other orders, in such cases, shall be made in court.

SEC. 13. That when any executor or administrator shall file a bill, under the provisions of this act, and shall unreasonably delay to prepare the same for hearing, or being a party to any such suit, shall unreasonably procrastinate such suit, it shall be in the power of the court, on the final hearing of the cause, to charge the executor or administrator with interest on all sums in his hands, and to reject any claim for compensation for services in the administration of the assets.

SEC. 14. That nothing in this act shall be construed to prevent an executor or administrator from proceeding at once to make sale of the personal estate and collecting the outstanding debts, and prepare for the speedy settlement of the estate, or from paying the debts at his own risk, when he deems the estate sufficient to pay all the debts of the decedent.

SEC. 15. That when there shall be specific devises, and the balance of the estate shall not be sufficient to pay the debts, it shall be the duty of the court to decree contribution from the specific devises, for the payment of the debts on equitable principles.

SEC. 16. That bills may be filed under this act before the expiration of six months from the suing out letters testamentary, or letters of administration, and when the standing Master Commissioner may be interested, the court shall have power to refer the case to a special commissioner; and the court shall make to the commissioner a reasonable compensation for stating the condition of the estate and taking the proofs as required by this act, to be paid out of the estate.

SEC. 17. That it shall be lawful to make the widow of a decedent a party, and to allot her dower out of the real estate, and to assign to her, her share of the personal estate and slaves.

SEC. 18. That the master shall examine the administrator or executor, under oath, touching his knowledge of all outstanding debts and claims against the decedent's estate, and report his written answer to the court; and when the master's report has been filed, and the time given for exceptions has passed, any person may, by motion in court, call up the same for a decision of the exceptions taken, and for an order of distribution among the creditors; and it shall be the duty of the court, during the term, to decide the exceptions to the report, and make the order of distribution in accordance with the provisions of this act.

SEC. 19. That the executor or administrator shall set out, in any bill filed by them under this act, all the claims or demands set up against the estate, so far as known, and shall make

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Proceedings in Louisville ch'ry court,

Ex'or and adm'r may be charged with interest when he delays suit.

Ex'or, &c. may proceed at once to settle the estate at his own risk.

Specific devises.

Bills may be filed within six months.

Pay to com'r.

Dower.

Executor or adm'r may be examined on oath.

Court to make order for distribution.

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oath to the bill; and he shall set out all the claims and demands set up against the estate in any answer which he may file to any bill under this act by others.

Approved February 20, 1839.

CHAP. 1328.—AN ACT for the benefit of the late and present Sheriffs of Washington county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That further time until the first day of December, eighteen hundred and thirty nine, be allowed George Grundy, late Sheriff of Washington county, to make out and return Auditor's additional list of revenue, listed by the Auditor of Public Accounts, and certified to said Sheriff for the year eighteen hundred and thirty seven; and that further time until the said first day of December next be allowed William Robertson, Sheriff of Washington county, to make out and return Auditor's additional list of revenue, listed by the Auditor of Public Accounts, and certified to said Sheriff for the year eighteen hundred and thirty eight: provided, that one or more of the securities of the above Sheriffs shall, on or before the nineteenth day of February, eighteen hundred and thirty nine, enter his or their assent, in writing, with the Auditor of Public Accounts to this indulgence.

Approved February 20, 1839.

CHAP. 1329.—AN ACT to amend an act, entitled, an act supplemental to an act providing for the compensation of Jurors, approved February 23, 1837.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the third section of an act, entitled, an act supplemental to an act providing for the compensation of jurors, approved twenty third February, eighteen hundred and thirty seven, shall be so amended as that when a juror shall serve during a regular term, or until the whole pannel is discharged, he shall not be summoned or required to serve until after the expiration of one intervening term of the court.

Approved February 20, 1839.

CHAP. 1330.—AN ACT to incorporate the Transylvania Institute, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there is hereby incorporated, and

made a body politic, a society to be known and styled the Transylvania Institute, whose business it shall be to promote learning, among the good people of this Commonwealth, by the delivery of lectures, publication of essays, treatises and books; but whose more especial object shall be to contribute, by subscription and otherwise, to the success and prosperity of Transylvania University.

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SEC. 2. Any person or persons who have, or may hereafter subscribe, five hundred dollars, to be paid in five equal, annual instalments, and shall, also, pay the first instalment (whenever the sum shall be ordered,) to the Trustees of Transylvania University, to the use and for the benefit of Morrison College, shall, from the time of such subscription and payment, become and be considered a member of said Institute.

Members.

SEC. 3. When fifty subscribers to the said society shall have been procured, its corporate existence shall commence under the above title. The officers of said society shall consist of a President, and an Executive Committee of three, to be elected by the said subscribers, at such times and places, and for such periods, as the said subscribers may designate; and, by the name and title of the President and Executive Committee of the Transylvania Institute, may sue and be sued, plead and be impleaded, in any court of justice in this Commonwealth; may adopt a common seal; and alter and renew the same at pleasure, and may hold property, real, personal, or mixed, to any amount not exceeding fifty thousand dollars.

When its corporate existence shall commence.

President & executive committee.

SEC. 4. The said President and Executive Committee, of the Transylvania Institute, may make such by-laws, and regulations for their government and proceedings, as they may deem proper and expedient: provided, however, that said by-laws and regulations be not inconsistent with this act, the constitution of this State, or the constitution of the United States.

By-laws.

SEC. 5. The Trustees of Transylvania University shall consist of eight citizens of Kentucky, five of whom, at least, shall be residents of Fayette county, to be elected as follows, to-wit: The Transylvania Institute, when organized, as above required, may elect two Trustees; the Mayor and Board of Councilmen of the city of Lexington, upon subscribing sixty thousand dollars to any or all of the departments of Transylvania University, of which not less than twenty thousand shall be appropriated for the use and benefit of Morrison College, to be paid in such manner as shall be agreed on between the said Mayor and Board of Councilmen and the present Board of Trustees of Transylvania University, may elect three other Trustees; at the first regular meeting of the said Mayor and Council, after the subscription is made, as is herein contemplated, they shall elect three Trustees of the University, one to serve one year, one to serve two years, and the other to serve for three years, from the date of their appointment, and until

Trustees of Trans. University, how elected.

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their successors may be elected; and after the expiration of ~~each~~ term of service, a Trustee shall be elected to remain in office for the term of three years; and the Governor of the Commonwealth, by and with the advice and consent of the Senate, may nominate and appoint three other Trustees, and in case of any vacancy in the Board of Trustees from death, resignation, or other cause, the same may be filled, by the authority which appointed the Trustee whose place may be vacated.

Present board of trustees to continue in office till others are appointed, and then two of them to go out of office.

Chairman to be chosen, powers of the b'rd.

Trustee's term of office.

Overseers of the University & their duties.

Overseers be appointed by Governor.

City & Institute send scholar for ev'ry 500 dollars they pay.

SEC. 6. Until the subscriptions of the said Institute, and the said Mayor and Board of Councilmen shall be made, and their organization, as aforesaid, completed, the present Board of Trustees shall continue in office; and after the said subscription shall be made, and their organization, as aforesaid, completed, and five Trustees shall have been elected by the said Institute and the said Mayor and Board of Councilmen, two of the present board shall go out of office, to be determined by placing the names of the present Trustees in a box, and the three Trustees, whose names shall be first drawn therefrom continue in office; and when so elected may choose a Chairman, and shall constitute the Board of Trustees of Transylvania University, and shall possess and enjoy all the rights, privileges, powers and immunities, heretofore vested by law in said Trustees. The said Trustees, except those appointed by the city, who after those first elected, as provided in the fifth section, shall be elected for the term of three years, shall continue in office for the period of two years from the time of their election, and until their successors are appointed.

SEC. 7. There is hereby constituted and appointed a Board of Overseers of Transylvania University, which shall consist of the Governor and Lieutenant Governor of this Commonwealth, the Speaker of the House of Representatives, and the Superintendent of Public Instruction, *ex officio*, and of one person to be chosen from each Congressional District in Kentucky, except the Congressional District in which Lexington is situated, where three shall be appointed. The Board of Overseers shall meet at least once in a year, to examine into the condition of Transylvania University, its management by the Board of Trustees, and, if necessary, report to the Legislature its wants, condition and prospects. They shall continue in office during good behavior, and be removable only by a joint vote of both branches of the Legislature, and shall have the power to fill any vacancy which may occur in their body from death, resignation, or otherwise.

SEC. 8. The Governor of the Commonwealth shall nominate, and by and with the advice and consent of the Senate, shall appoint the Overseers of Transylvania University.

SEC. 9. The Mayor and Board of Councilmen, of the city of Lexington, and the members of the Transylvania Institute, may send one scholar to Morrison College, for each and every five hundred dollars which they have, or may hereafter, subscribe, and shall fully pay. Their right to vote for the Trustees

of Transylvania University, shall commence when they shall have, respectively, paid the first instalment upon their subscriptions, and shall be discontinued by a failure or refusal, for three months, to pay the annual instalments as they are ordered, provided that notice of such instalment being ordered, shall be published for thirty days, consecutively, in one or more of the authorized newspapers of Lexington.

SEC. 10. After erecting the necessary dormitories and refectories, the residue of the money subscribed, and paid, as aforesaid, shall be invested by the Trustees of Transylvania University in safe and profitable stocks, and the proceeds or interest thereof, only, shall be applied to the payment of the salaries of Professors, and to such other purposes as, in their opinion, will most advance the interests of said University.

SEC. 11. The General Assembly of the Commonwealth of Kentucky, by and with the consent of the then existing Board of Trustees, may make such alterations in the organization of Transylvania University as they may deem expedient and proper. And all laws relating to Transylvania University, not inconsistent with this act, or any of the provisions hereof, shall continue in full force and effect.

Approved February 20, 1839.

After erecting dormitories, &c the residue of the money paid to be vested in stocks, and the int. only used.

Legislature may make alterations in the organization of the University.

CHAP. 1331.—AN ACT authorizing a sale of the land and slaves descended to Mary McFeeters.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Joseph G. McFeeters, committee for Mary McFeeters, may file a petition in the Fayette Circuit Court, stating what estate, real and personal, is owned by said idiot, what is, in his opinion, its present value, what the land would probably rent for, annually, and how much he believes the slaves could be hired for by the year, and stating that, in his opinion, it would redound to the interest of said idiot that her interest in a tract of land, in the county of Fayette, and two slaves which descended to her, and others from her father, Charles McFeeters, should be sold, the truth of which statements shall be supported by the oath of said committee, and by the testimony of such persons as may be produced before the court and examined. If the court shall thereupon be satisfied that it would redound to the interest of said idiot, that her interest in said tract of land and slaves should be sold, a decree shall, thereupon, be rendered, directing a sale thereof upon such credit, and in such manner, and on such terms, as the court may think proper; and a Commissioner shall be appointed, other than said committee, to make said sale, and to convey the land.

Petition or bill in ch'y may be filed, & for what purpose.

Court may decree sale &c.

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Notes for
purchase money,
how taken
and disposed of.

Committee to
give bond.

SEC. 2. That the notes executed for the price of said land and slaves, shall be made payable to the idiot, and shall be secured by sureties, to be approved of by the court; the Commissioner, in making the sale, shall take said notes with sureties, and report the same to court, and shall not convey the land until his proceedings thereon shall have been approved by the court. The court shall cause said notes to be delivered to said committee, upon his executing bond with approved surety to said idiot, in a penalty to be fixed by the court, conditioned to place the proceeds of the sales aforesaid at interest, and to pay the same to such person or persons as may be entitled thereto, when legally demanded, except that so much thereof as may be necessary for the comfortable support and safe keeping of said idiot, may, from time to time, be used for that purpose by said committee. The bond so executed shall be kept by the Clerk, with the papers of said petition. The affidavit of said committee, to said petition, shall not be regarded as testimony, and all the testimony, in the case, shall be upon examination of witnesses in court by the Judge.

Approved February 21, 1839.

CHAP. 1332.—AN ACT for the divorce of Sarah McGinnis.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Sarah McGinnis and William McGinnis is hereby dissolved, and the said Sarah is restored to all the rights and privileges of an unmarried woman.

Approved February 21, 1839.

CHAP. 1333.—AN ACT for the benefit of Sandy H. Aldridge.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts issue a warrant on the Treasurer, in favor of Sandy H. Aldridge, for twenty two dollars, to be paid out of any money in the Treasury not otherwise appropriated.

Approved February 21, 1839.

CHAP. 1334.—AN ACT to change the names of Elizabeth Harris' children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the names of Overton R. Harris, William

A. Harris, John M. Harris, James H. Harris, Peyton J. Harris, Virginia G. Harris, and Francis M. Harris, children of Elizabeth Harris, of Cumberland county, be, and the same are hereby, changed to that of Murphy.

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Approved February 21, 1839.

CHAP. 1335.—AN ACT for the divorce of Rhoda Lytle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Rhoda Lytle and her husband, Robert Lytle, be, and the same is hereby, dissolved, so far as relates to the said Rhoda, and she is hereby restored to all the rights and privileges of an unmarried woman.

Approved February 21, 1839.

CHAP. 1336.—AN ACT to incorporate the Trustees of the Mount Zion Methodist Episcopal Church, in Bracken county.

WHEREAS, it is represented to the present General Assembly, that Ferdinand Doria in his lifetime, to-wit: on the twenty eighth day of ———, eighteen hundred and nineteen, conveyed to Joseph Carter, Casper Bowman, William Robinson, and Robert Tivis, by deed, one acre of ground on which stands a meeting house, in the county of Bracken for the use of said Church—that the said Joseph Carter hath removed out of the State of Kentucky—that William Robinson hath departed this life—that Casper Bowman and Robert Tivis are old and infirm—that there is a prospect of said property falling into hands too feeble to protect it from injury—that the said Church have elected, pursuant to the discipline and rules which are established for its government, Peter Maines, Beacham Doria, William Doria, Thomas Bradford, and Thomas Grange, Trustees for that purpose—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the said Peter Maines, Beacham Doria, William Doria, Thomas Bradford, and Thomas Grange, and their successors, be, and they are hereby, created a body corporate and politic, by the name and style of "The Trustees of the Mount Zion Methodist Episcopal Church," and by that name to have perpetual succession, with all the powers incident to corporations for the purposes of suing and being sued, pleading and being impleaded, so far as may be necessary to protect and preserve the rights, titles,

Corporators
names and cor-
porate powers.

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May receive
conveyances of
land, &c.

property, privileges, possessions and immunities of said Church, which now does, or hereafter may, belong to the same; also, to buy and receive conveyances for any lot, or lots, of ground which may be necessary for said Church, or which may be given or devised to them for the use of said Church, which said property shall pass to their successors for the use of the successive members of said Church forever, pursuant to the desire or the express limitation of the donor or grantor.

Bowman &
Tivis to convey
land to trustees

SEC. 2. That the said Casper Bowman and Robert Tivis shall have power and authority to convey the lot of ground conveyed to them and their associates to "The Trustees of the Mount Zion Methodist Episcopal Church," and such conveyance, when made, shall vest the title to the same in the said Trustees and their successors, as fully and completely as though the conveyance had been originally made to them by the said Ferdinand Doria, deceased.

Term of of-
fice of Trustees
and how vacan-
cies how filled.

SEC. 3. That the said Trustees, now appointed, shall continue in office so long as they shall continue to be members of said Church, unless they shall sooner resign, and whenever vacancies may occur it shall and may be lawful for them to be filled pursuant to the discipline and rules and regulations of said Church.

Reservation
to alter or re-
peal.

SEC. 4. That for the purpose of preventing the abuse of any of the privileges hereby granted, the Legislature expressly reserves the right to alter or abolish this charter, either in part or entirely, at any time.

Approved February 21, 1830.

CHAP. 1337.—AN ACT concerning the estate of Daniel Riley, deceased.

Adm'r. may
file petition or
bill in ch'y, &
for what pur-
pose.

Ac'ts of adm'r
to be stated by
com'r.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for Joseph E. Settle, Administrator of the estate of Daniel Riley, deceased, to file his petition, or bill in chancery, in the Anderson Circuit Court, setting forth that the personal estate of said deceased is insufficient to pay his debts, making the heirs of said deceased defendants thereto; and upon filing of such petition or bill, the court shall cause the accounts of said administrator to be stated by a Commissioner, to be appointed for that purpose, and cause the amount of debts, remaining due and unpaid against said estate, to be ascertained as near as it can be done; and if it shall appear from the evidence which may be adduced, that it is necessary that a sale of any part of the real estate of said deceased is necessary and proper, for the purpose of paying off the debts yet due, it shall be lawful for said Court to decree a sale of a certain tract of land containing

about four hundred acres, known as the mill tract, lying and being in the county of Anderson, upon such terms and credits as may seem best and most to the advantage of the parties concerned.

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SEC. 2. That the said court, before decreeing such sale, shall cause the proper parties to be brought before the court in the usual manner in proceedings in chancery, and in case a sale of said land shall be decreed, the said court shall require said administrator to execute bond with good surety, conditioned for the faithful application of the proceeds of such sale to the payment of the debts of said deceased, and for the payment of the surplus (if any,) to the person or persons entitled thereto as legatees or distributees of the estate of said deceased, and make all such orders and decrees in the premises which may be found necessary to carry into effect the sale and conveyance of said land to the purchaser or purchasers, and the faithful application of the proceeds thereof as herein directed.

Adm'r to give
bond, condition
thereof.

Approved February 21, 1839.

CHAP. 1338.—AN ACT for the benefit of certain subscribers to the Protestant Episcopal Church of Russellville.

WHEREAS, it is represented to the present General Assembly that in the year eighteen hundred and thirty five, the Reverend William McCallan, of the Protestant Episcopal Church, raised by the contribution of various persons a fund for the purchasing a lot of ground in Russellville, Kentucky, on which to erect a house of worship in Russellville, for the benefit of the Protestant Episcopal Church, in said town, and with a portion of said fund bought a lot, to-wit: lot No. 5, or a part thereof, in Samuel Caldwell's addition thereto from D. N. Russell, which was conveyed by himself and wife, by deed, bearing date the twentieth day of May, eighteen hundred and thirty five, to John C. Henry, George W. Ewing, William L. Hardin, Thomas W. Stockdale, Robert R. Peebles, James McCallan, William E. Curd, James W. Wilson and James Armstrong, in trust for the use and benefit of the Protestant Episcopal Church in Russellville, that afterwards finding the fund so raised was insufficient to erect such house, he repaid the sum that remained after said purchase to a portion of the contributors thereto, and totally abandoned the project: leaving some to whom no portion was re-paid; and it appearing that there is now no Protestant Episcopal Church in said town for whose use the said lot was bought, and for whose benefit said Trustees were to hold it: that a portion of said Trustees are dead, and others have moved from the country, and no successors have been or can be appointed to take their places: and, whereas, it is the wish of all who survive and

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are interested that the said lot of ground should be sold, and the proceeds applied to the benefit of those who originally contributed, and have not had their donations re-paid, but doubts are entertained as to the power to do the same—for remedy whereof,

Pet. in ch'y.
may be filed, &
for what pur-
pose.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall and may be lawful for any one or more persons, or their legal representatives, who contributed to the said original fund, raised as aforesaid, by the said William McCallan, and to whom the amount contributed has not been re-paid, to present his, her or their, petition, to the Judge of the Logan Circuit Court, at any of the sittings of said court, setting forth, in substance, the facts above mentioned; and upon its being satisfactorily shown to said court, by proof, oral or otherwise, that there is no Protestant Episcopal Church or regularly organized congregation of that denomination in Russellville, and that the prayer of such petition is reasonably just and equitable, such court shall decree that the lot or parcel of ground, in the preamble hereto mentioned, shall be sold, and the proceeds thereof applied, by the said William McCallan, or such other fit person as the court shall appoint, to the re-payment of the contributions of such persons to said original fund, to whom, or their legal representatives, as it shall appear, have not heretofore been re-paid, or in case the fund arising from such sale shall not be sufficient to re-pay the full amount to each yet unpaid, such Commissioner shall re-pay or distribute *pro rata*.

Court may
decree sale &
direct applica-
tion of proceeds

Approved February 21, 1839.

CHAP. 1339.—AN ACT for the benefit of Annie H. Blair, and the widow and heirs of William C. Warfield.

WHEREAS, it is represented to the present General Assembly that Annie H. Blair is entitled by descent from her father, Walter Warfield, to one third part, and by devise from her brother, Charles H. Warfield, to one other third part of two houses and lots, situated in the city of Lexington, on the Northeastwardly end of Jordan's row, and fronting the public square; that the remaining third of said houses and lots belong to the widow and heirs or devisees of her deceased brother, William C. Warfield, and that the said estate is comparatively unproductive, and not susceptible of a fair division in kind—for remedy whereof,

Bill in ch'y
may be filed &
for what pur-
pose.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be lawful for Annie H. Blair to exhibit her bill in chancery in the Fayette Circuit Court, setting forth her title to an undivided interest, in and

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to two certain houses and lots, situated on Jordan's row in the city of Lexington, and alledging in said petition that said property is not susceptible of a fair division in kind among the owners thereof, and that it would redound to the advantage of said joint owners to have the same sold, making the widow and heirs or devisees of William C. Warfield, and all others interested, defendants to such bill; and upon said defendants being properly before the court, and said case duly prepared for hearing, the court shall have full power to order a sale of said real estate, upon such terms and conditions as to the Chancellor may seem right, and appoint a Commissioner to make said sale and conveyance and report the same to the court.

SEC. 2. That upon the coming in of the report of the Commissioner of the sale, and before the final decree of said court, the court shall require bond with sufficient security from the guardian or guardians of the infant heirs of William C. Warfield, conditioned as like bonds are now required by law to be; and the said court shall, also, have power, with the consent of the widow of said William C. Warfield, to allow to said widow a just amount out of the proceeds of said sale, to be held by her in fee simple in lieu of her dower interest. But provided the amount so to be allowed cannot be agreed upon, then it shall be the duty of the court to allot, to said widow, the one third part of the interest of said heirs or devisees for life, requiring said widow first to enter into bond, with ample security, to account for the same to said heirs or devisees, and upon her failure to execute said bond, said court shall make such order for lending out the same for the benefit of said widow during her natural life as to him may seem proper, requiring like bond and security from the person or persons borrowing the same, and from time to time, said court may make all necessary orders, calculated to secure said money, and the proceeds thereof, for the benefit of the parties interested, and do all other acts, touching the same, that a Chancellor may, by the general laws of the land, be authorized and empowered to do,

Guardian of
infant heirs of
Warfield to
give bond.

Widows dower
may be sold
with her consent;
if she should
not consent, dower
is to be allotted her.

Proceeds of
sale may be
loaned out.

Approved February 21, 1839.

CHAP. 1340.—AN ACT for the benefit of the Sheriff of Livingston county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Sheriff of Livingston county be allowed until the first day of July, eighteen hundred and thirty nine, to return his delinquent list for revenue tax due from said county for the year eighteen hundred and thirty eight, to the Auditor's office; and when the same shall be

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returned, the Auditor of Public Accounts is hereby directed to issue his warrant on the Treasury for the amount of said list, which shall be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. That said Sheriff shall have until the next session of the Court of Assessment of the twenty fourth Regiment of Kentucky Militia to return his delinquent list of muster fines in said Regiment, collectable in the year eighteen hundred and thirty eight; and said Court of Assessment shall allow the same in the same manner, and direct the payment thereof in the same way, as though it had been returned in the time now directed by law.

Approved February 21, 1839.

CHAP. 1341.—AN ACT to allow an additional Constable to the county of Monroe.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That there is hereby allowed to the county of Monroe one additional Constable, who shall be appointed by the County Court of said county, in the district of Squire George McPherson, of said county.

Approved February 21, 1839.

CHAP. 1342.—AN ACT to change the time of holding the Muhlenburg Circuit Court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Circuit Court of the county of Muhlenburg, shall, from and after the year eighteen hundred and thirty nine, commence on the Mondays preceding the last Mondays in March, June, and September, in each and every year, and continue six juridical days at each term, provided the business in said court shall require it.

Approved February 21, 1839.

CHAP. 1343.—AN ACT to amend an act, entitled, an act to regulate equitable proceedings under five pounds, before Justices of the Peace.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That Justices of the Peace shall have

all original jurisdiction in cases in equity under five pounds, under the same rules, regulations and restrictions, that Circuit Courts now have jurisdiction in chancery over five pounds; provided, that no suit against a non-resident shall be determined until an order shall have been entered by the Justice, warning such non-resident to appear on some day mentioned in said order, not less than thirty nor more than sixty days after granting the order: and, provided further, that any complainant, seeking the benefit of this act, shall make a written statement, under oath, that so much as he or she is seeking to collect, is justly due to him: and, provided also; before any order for the payment of money is made by any Justice under this act, the complainant shall prove his demand and give bond, with approved security, conditioned to pay all such damages as any defendant may sustain; and provided that no person who may be garnisheed shall be bound to pay any cost accruing on the said proceeding, nor shall he be compelled to answer in writing, but orally, on oath.

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Justices' jurisdiction and manner of proceeding.

SEC. 2. The Justice issuing the appropriate process, shall endorse on the same an order restraining such person, so to be summoned, not to pay to the debtor the amount owing him, until the further order of such Justice; provided that no greater amount than five pounds, and the probable cost of the suit, be thus endorsed.

Restraining order to be endorsed.

SEC. 3. The fees of the Justice shall be, for each summons, twenty five cents; each bond, twenty five cents; each judgment and entering the same, twenty five cents; each warning order, twenty five cents; executions, as now allowed by law. The fees of the Constable shall be, for serving each summons, twenty five cents; and for other services, as now allowed by law.

Fees to justice and constable.

Approved February 21, 1839.

CHAP. 1344.—AN ACT to amend an act, entitled, an "act to prevent further confiction in land claims, and to secure to settlers and improvers a preference of location to lands improved by them."

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the actual settler on any vacant and unappropriated land in this Commonwealth, shall have a pre-emption right, subject to the limitations and conditions of the laws now in force, to any number of acres of said land, not exceeding one hundred, which shall be laid off so as to include his improvement, and as nearly as may be in a square.

SEC. 2. That so much of any law as allows any actual settler a pre-emption right for more than one hundred acres of land as aforesaid, be, and the same is hereby repealed.

Approved February 21, 1839.

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CHAP. 1345.—AN ACT for the benefit of Thomas Croper, James Southard and William Sugg.

WHEREAS, it is represented to this General Assembly, that Thomas Croper is part owner of a certain tract of land in Union county, containing eight thousand acres, which said land has been entered with the Auditor of Public Accounts as non-resident land, and as such forfeited to this State for non-payment of the taxes for the years eighteen hundred and thirty six, eighteen hundred and thirty seven and eighteen hundred and thirty eight; and the said Croper having procured a division of said land by which he has become sole owner of three thousand acres thereof—therefore,

Croper's land
released from
forfeiture.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Auditor of Public Accounts be, and he is hereby, directed to release from forfeiture the said three thousand acres of said land, on his fully paying all taxes, costs and damages due the State for said three thousand acres of said land.

Preamble.

And, whereas, it is represented, that James Southard, of the county of Jefferson, is a part owner of certain tracts of land in the county of Meade, amounting to forty eight thousand acres, which has been entered as non-resident lands, in the name of Samuel Bleight, and as such has been forfeited to the State for the non-payment of taxes thereon, and that the said Southard has entered the said land for taxation with the commissioner of the revenue for said county, and fully paid the taxes due thereon to the Sheriff of said county—therefore,

Southard's
lands released
from forfeiture.

SEC. 2. *Be it further enacted,* That the Auditor be, and he is hereby, authorized and directed to release from forfeiture the above forty eight thousand acres of land without any payment whatever thereon.

Wm. Sugg
permitted to re-
deem lands by
paying taxes.

SEC. 3. *Be it further enacted,* That William Sugg be, and he is hereby, authorized and permitted to redeem from forfeiture, one hundred and forty four acres, part and parcel of a fourteen hundred acre military survey, lying near the line between Henderson and Hopkins counties, on the waters of Deer creek, and patented to John Hurt by the payment of the proper proportion of the tax, for non-payment of which, said tract of fourteen hundred acres was forfeited, together with the proper proportion of the interest and costs of said forfeiture; and the Auditor is hereby authorized and required to settle with said Sugg for the same; and, also, upon the production of the proper certificate, to strike said one hundred and forty four acres of land from his books.

Approved February 21, 1839.

CHAP. 1346.—AN ACT for the benefit of James Doyle and his legal representatives.

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WHEREAS, it is represented to this General Assembly, that James Doyle, late of Clarke county, in this State, has been absent from said county for several years, but not so long as to create a legal presumption of his death, and that he has been occasionally afflicted with mental alienation, and other infirmities, and consequently that his estate in Kentucky will be greatly jeopardized by the want of that proper attention and care which no one is now authorized to bestow thereon; and his estate may be thereby wasted to the injury of himself or his legal representatives—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Clarke Circuit Court be hereby authorized, from time to time, on the petition of any of his next of kin, and on satisfactory proof of the facts set forth in the preamble to this act, to appoint a curator of the personal estate of said James Doyle, and said curator is hereby vested with power to collect and preserve the estate and debts of the said Doyle by suit, in his name, or otherwise, and sell his perishable estate, of which he shall make an inventory, and return the same to said court within three months after his appointment: said sale to be made on a credit of twelve months, and to be advertised twenty days previously thereto, the purchaser giving bond with sufficient surety; payable to said curator in trust for said Doyle and his legal representatives; the said curator shall be chargeable with interest on any money which may come to his hands under this act, in like manner as guardians are bound for interest on the moneys of their wards; and for his services, said curator shall receive the same compensation which is allowed to executors and administrators for like services; and he shall render to said court, from time to time, an account of his actings as curator, whenever required so to do by said court: provided, that said curator shall, in open court, execute bond, payable to the Commonwealth, in a penalty, and with sureties, to be approved of by the said court, and conditioned for the due discharge of his duties as required of him by this act, and for the payment and surrender, by said curator to his successor in office, or to said Doyle, or his legal representatives, on demand, of the moneys and other property which may come to his hands as curator, after deducting his compensation for his services: and, provided further, that said curator shall be first sworn, faithfully to perform the duties herein imposed on him.

A curator may be ap'ted and his powers and duties.

Pay to curator.

His bond.

His oath.

SEC. 2. That whenever it shall appear to said court that any curator, appointed under this act, is mismanaging said fund, or that the said fund is becoming insecure by reason of the declining pecuniary condition or insolvency of such curator or

Curator may be removed.

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his sureties, it shall be the duty of said court to remove him, or make any other order, which, to said court, may seem necessary for the preservation of said fund.

Approved February 22, 1839.

CHAP. 1347.—AN ACT for the benefit of the Trustees of the Glasgow Academy.

WHEREAS, it is represented to the present General Assembly, that the Trustees of the Glasgow Academy, previous to the passage of the law giving the fines and forfeitures of this Commonwealth to the payment of Jurors, had contracted a debt, relying on the fines and forfeitures of Barren county to discharge the same; which fines and forfeitures had been given to said Academy, by an act of Assembly, approved at their session of 1834-5, and for the purpose of securing to said Academy the fines which accrued previous to the passage of the act giving the fines and forfeitures to the payment of Jurors, and subsequent to the passage of the law giving said fines and forfeitures of Barren county to the Glasgow Academy—for remedy whereof, therefore,

To have certain fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all the fines and forfeitures of Barren county, that may have accrued, or for which suits may have been brought, from the first of January, eighteen hundred and thirty five, up to the first of January, eighteen hundred and thirty eight, shall be, and the same are hereby, given to the Trustees of the Glasgow Academy, for the use and benefit of said institution; any law to the contrary notwithstanding.

Approved February 22, 1839.

CHAP. 1348.—AN ACT to incorporate the Lebanon Lyceum.

Lyceum incorporated.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the present, and those who may hereafter become members of the Lebanon Lyceum, and their associates and successors, be, and are hereby, made and constituted a body politic and corporate, by the name and style of the Lebanon Lyceum; and by that name shall have perpetual succession, and are hereby made able and capable to have, purchase, receive, possess, enjoy, and retain, to them, and their successors, such tenements, goods and effects, not exceeding the sum of five hundred dollars in value, as they may deem necessary for the advantage of such society, and for the promotion of literature, the fine arts, and the dissemination of knowledge;

Right to repeal this act reserved.

the same to sell, grant, and dispose of, at pleasure: provided, that the Legislature reserve the right to repeal, amend, or modify this charter, at pleasure.

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SEC. 2. That the said Lebanon Lyceum is hereby empowered to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law or equity in this Commonwealth; and shall be, and is hereby, vested with all privileges and powers which by law are incident to corporations of a similar character; also, to make, have and use, a common seal, and the same to break, alter, or renew, at pleasure; also, to form, establish, and put in execution, such by-laws, ordinances, and regulations, as shall be necessary and convenient for the government of said corporation, and which are not contrary to the constitution and laws of this Commonwealth; and generally to do and execute, all and singular, the acts necessary to carry into effect the objects of this charter.

Powers corporate.

SEC. 3. That the members of said society, on the first Saturday in March, in the year one thousand eight hundred and thirty nine, and at such other times as shall be prescribed in its by-laws, shall meet, and elect a President, Secretary, Treasurer, and such other officers as the society may think proper for the government thereof, whose terms of office shall be limited to such times as shall be hereafter specified in the laws and regulations governing the same.

Election of President and other officers.

SEC. 4. The President elect, for the time being, shall have power, and is hereby authorized, to appoint, from time to time, committees, officers and agents, as shall be necessary and convenient to carry into effect the object for which this corporation is established; and to levy and collect taxes, fines, forfeitures and contributions, agreeably to the laws of said society. A majority of the members at any one time belonging to the society, shall constitute a quorum.

President to appoint officers

Levy fines.

Approved February 22, 1840.

CHAP. 1349.—AN ACT further regulating the duties of the Commissioners of the Revenue.

WHEREAS, it is represented to the present General Assembly, that sundry persons have failed, in the year eighteen hundred and thirty eight, to list with the Commissioners of the Revenue, their residuary estate required to be listed for taxation by the act to equalize taxation—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the Commissioners for the year eighteen hundred and thirty nine, in every case, to enquire into, and ascertain from the Commis-

Com'rs to take in residuary estate not listed last year.

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sioner's books for the year eighteen hundred and thirty eight, or otherwise, whether each person listing his or her taxable property for the year eighteen hundred and thirty eight, has listed said residuary estate for taxation, agreeably to the act aforesaid; and in each and every case, where any person has failed to list his residuary estate aforesaid, as directed by said act, it shall be the duty of said Commissioners to request and take from such person, a list of said residuary estate not thus listed for taxation; and in case of the refusal of such person to render a list of said residuary estate, agreeably to said act, it shall be the duty of the Commissioner to report such delinquent to the proper court, who shall institute such proceedings against such delinquent as are provided by the existing laws, in regard to persons failing or refusing, in other cases, to render lists of their taxable property.

Auditor to
publish and cir-
culate this act.

SEC. 2. That it shall be the duty of the Auditor of Public Accounts to cause an immediate publication and circulation of this act among said Commissioners, by transmitting to the Clerks of the several County Courts, a competent number thereof, for distribution.

Approved February 22, 1839.

CHAP. 1350.—AN ACT declaring the tributaries of Licking and other rivers navigable.

Rivers de-
clared naviga-
ble.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That all the tributary streams of the Licking, Kentucky, Green, Barren and Muddy rivers, be, and the same are hereby, declared navigable, from their mouth, as high up as the water may be slacked by the locks and dams now under contract, or which may hereafter be put under contract, on said streams.

Bull Skin.

SEC. 2. That Bull Skin creek, in the county of Clay, be, and the same is hereby declared a navigable stream, from its junction with the South Fork of Kentucky river, to the forks of said stream.

Penalty for
obstructing the
navigation.

SEC. 3. That it shall not be lawful for any person, in any manner, to obstruct the navigation of said streams; and whosoever offends herein, shall, besides damages to the party injured, forfeit and pay three dollars for every twenty four hours said obstruction may be continued, recoverable before any court of record having jurisdiction of like sums, or upon presentment or indictment of a Grand Jury; one half to the informer, and the other half to the Commonwealth.

Approved February 22, 1839.

CHAP. 1351.—AN ACT to authorize the construction of a Road, from the bridge, on the Rolling Fork of Salt river, to Newmarket.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be the duty of the Board of Internal Improvement, during the year eighteen hundred and thirty nine, to cause to be constructed, a graded or McAdam road, from the north bank of the Rolling Fork of Salt river, where a bridge is now being erected at the cost of the State, to intersect the old Lexington and Nashville road, at or near Newmarket; and that they pay for the same out of the Internal Improvement Fund of the Commonwealth.

Approved February 22, 1839.

CHAP. 1352.—AN ACT to amend the charter of the Maysville Insurance Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Maysville Insurance Company, a majority of the President and Directors concurring, may vest one half of the capital stock of said Company, now paid in, and one half of that which shall hereafter be paid, (so far as said payments are made from the proceeds of dividends of profits,) in the stocks of such of the incorporated companies of this State, as a majority of all the Directors may choose; and the said Directors shall have power to sell said stocks, or any part thereof, that may be necessary to meet payments for losses on insured property.

May vest one half of capital in stocks.

SEC. 2. That the twentieth section of an act, entitled, an act to incorporate the Louisville Gas and Water Company, shall be so amended as to authorize any citizen of the United States to hold stock in said Company.

Approved February 22, 1839.

CHAP. 1353.—AN ACT to provide for writing out the certificates and recording certain deeds in the Clerk's office of the Hickman County Court.

WHEREAS, H. L. Edrington, Clerk of the Hickman County Court, for some time before his death, was not able to write his name, and Marcus Murray acted as his deputy in said office, without having been sworn in as such; and some deeds, although acknowledged and the certificate written out, want the signature of the said Edrington; and there are other deeds

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in said office that have been acknowledged, in whole or in part, and some that have been proved in whole or in part, and minutes made thereof by said Edrington, or some of his deputies, who have heretofore departed this life, or left the office—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the said Marcus Murray to sign the name of said Edrington to all such certificates as lack his signature, which the said Murray shall know to have been acknowledged before the said Edrington, or any of his deputies, or have the minutes on the deeds; which fact he shall certify; and the said Marcus Murray shall be, and he is hereby, authorized to write out the certificate of acknowledgment, and certificates of proof, from the minutes on the deeds in said office, by the said Edrington, and his deputies as aforesaid; and when so written out and certified by said Murray, for the said Edrington, the deeds, with the certificates, shall be recorded by the present Clerk; and the deeds referred to in this act, when the certificates are signed, and the certificates written out, as herein authorized, and the deeds recorded, shall be held, in all respects, as recorded deeds; and copies thereof may be read in evidence, as deeds regularly certified and recorded.

Approved February 22, 1839.

CHAP. 1354.—AN ACT for the appropriation of the fines in the city of Lexington, and for other purposes.

The amount paid to police judge may be retained of the fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Mayor and Council of the city of Lexington, in consideration of the payment into the Treasury of the sum of five hundred dollars, the amount of the salary of the Judge of the city of Lexington, may retain, for the use of said city, the said sum of five hundred dollars, annually, out of the fines assessed in the city court, already collected, or which may be hereafter collected; and it shall be the duty of the Mayor and Council to pay over, into the Jury fund, all fines and forfeitures assessed in said court, which are now collected, or which may hereafter be collected, after deducting the sum of five hundred dollars aforesaid, for each and every year, so long as they shall pay the sum of five hundred dollars into the Treasury.

Approved February 22, 1839.

CHAP. 1355.—AN ACT for the benefit of Wm. N. Taul's representatives.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Montgomery Circuit Court is hereby vested with authority to decree a sale of the real estate of William N. Taul, deceased, for the payment of his debts, on the petition or bill in chancery of the executor, or of any one of the heirs, devisees and legatees of said Taul: provided, that to said bill or petition, all of said representatives be made defendants, or parties to said suit; and that said court shall not decree such sale, until it shall be made appear to said court, by satisfactory proof, that the negroes and personal estate of said Taul are insufficient for the payment of his debts: and provided, further, that in its decree said court shall be governed by the provisions of the act passed at the present session, entitled, an act to regulate the administration and settlement of estates, so far as the same may be applicable, but without the *pro rata* distribution enacted by the first section thereof.

Sale of real estate authorized to pay debts.

Approved February 22, 1839.

CHAP. 1356.—AN ACT to amend the several laws in force for the town of Lebanon.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the fiscal, prudential and municipal concerns of the town of Lebanon, in Marion county, shall be vested in five Trustees, three of whom shall form a quorum to transact business, and all of whom shall be freeholders, and shall have resided in said town one year next preceeding their election.

Number of trustees.

SEC. 2. That said Trustees, and their successors, shall be a body politic and corporate, and shall be known by the name and style of the Board of Trustees of the town of Lebanon, and by that name shall be capable, in law, of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, of answering and being answered, and of defending and being defended, in all courts and places, and may use a common seal.

Trustees incorporated.

SEC. 3. That said Trustees shall be elected, annually, on the second Saturday in March, by the free white male inhabitants of said town over the age of twenty one years, who shall have paid his poll tax for the preceeding years, and all arrearages due said town, which, upon being questioned must be satisfactorily shown. The said Trustees shall hold their office for one year, and until their successors shall be elected and qualified.

Trustees elected

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The oath.	
Power to fill vacancies.	
Chairman.	
Town tax.	SEC. 4. That it shall and may be lawful for the Trustees of the town of Lebanon, or a majority of them, whenever they may think it expedient to assess, levy and collect a tax on all real and personal estate, within the limits of said town, not exceeding twenty five cents on the hundred dollars' worth of property in any one year; and the said Trustees shall have power to impose a head tax of not exceeding one dollar and fifty cents on the head, and to appoint a suitable person to take in a list of taxable property and persons, and a collector to collect such tax, who shall give bond and security, payable to the Trustees, conditioned for the faithful discharge of the duties of his office, and be allowed such compensation as shall be agreed on between them and the Trustees.
Assessor and collector.	
Clerk & his duties and pay.	SEC. 5. That the Board of Trustees, in and for said town, shall appoint a Clerk, whose duty it shall be to keep a fair record of proceedings of said Trustees, which shall be open for the inspection of any person, desiring to see the same; and said Trustees shall be at liberty to make any reasonable allowance to the Clerk for his service out of any funds which may come into their hands under the provisions of this act.
Former laws.	SEC. 6. That no act, or parts of acts, heretofore passed relative to the said town, shall be repealed, but the same are hereby continued in force, except where the same shall come within the purview or contravention of this act: provided, also, that all actions or suits, that shall originate in favor of said Trustees against the collector of the tax of said town, or his sureties, shall be cognizable before the Marion Circuit Court, or before a Justice of the Peace of said county according to the amount claimed.
Suits against collector.	

Approved February 22, 1839.

CHAP. 1357.—AN ACT to incorporate the town of Locust Port, in Union county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the town which has been laid off in the county of Union, upon the Ohio river, by Peter and Philander Berry, proprietors thereof, shall be, and the same is hereby, established, upon the plan formed and laid down by

Town established.

said proprietors, and entered of record in the Clerk's office of the Union County Court, and that said town shall hereafter be known and called "Locust Port."

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SEC. 2. That Philander Berry, John F. Cromwell, William David, Philip Boone and William O. Cromwell, are hereby constituted and appointed Trustees of said town, who shall, before they enter upon the duties of said office, take an oath or affirmation, before some Justice of the Peace for said county, faithfully to discharge the duties of said office.

Trustees appointed & their oath.

SEC. 3. That the Trustees of said town, hereby appointed, and their successors in office, a majority of them concurring therein, shall have full power to pass such by-laws for the government of said town, and the inhabitants thereof, as to them shall seem expedient and right: provided, they be not contrary to the laws and constitution of this State; and should the office of Trustee of said town at any time become vacant, a majority of those in office shall have full power to fill such vacancy, from time to time.

By-laws.

Vacancies filled.

Approved February 22, 1839.

CHAP. 1358.—AN ACT to authorize the running and re-marking the line between Green and Adair counties.

WHEREAS, it is represented to the present General Assembly, that there are difficulties existing with the citizens of Green and Adair counties, in consequence of the line dividing said counties not being plainly marked and known—for remedy whereof,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Surveyors of said counties, together with some four other discreet house keepers of said counties, (to be appointed by said Surveyors,) be, and they are hereby, appointed to run and re-mark the said county line dividing said counties, having regard, in running the same, to the law creating the county of Adair, and the old line, if to be found; and they shall mark the said line on some permanent natural objects, when it can be done; and in case they shall deem it proper, at particular points, they may set up stones, or other indexes, to shew the boundary of said counties.

Surveyors & commissioners.

SEC. 2. That said Surveyors, when they shall have run and re-marked said line, they shall make out two copies of their report, in writing, stating the beginning and the continuation of the boundary, with such other remarks as they may deem proper, in order to show the boundary aforesaid. A copy of each report, they shall sign, and file in the County Court Clerk's office of each of said counties; and said report may thereafter be used as testimony, or an authenticated copy

To make two reports and return them to the clerk's office of the county.

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thereof, of the boundary line of said counties; and it shall be the duty of the Clerks of said County Courts to record the same; and they shall make out and certify copies whenever required.

Pay to surveyor & com'r.

SEC. 3. That each of said Surveyors shall be entitled to three dollars per day whilst engaged in running and marking said line, and the other commissioners the sum of one dollar and fifty cents per day, each, payable equally out of the county levy of said counties, which the County Courts of said counties shall allow and levy on their respective counties.

Approved February 22, 1839.

CHAP. 1359.—AN ACT to change the place of voting in Bailey's Precinct, in Shelby county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in Bailey's Precinct, in Shelby county, shall hereafter be at the house now occupied by Hiram B. Headen, in the town of Harrisonville, instead of Lewis M. Bailey's, as heretofore.

Approved February 22, 1839.

CHAP. 1360.—AN ACT to incorporate the Munfordville Bridge Company.

Corporators' names.

For what purpose created.

Powers, corporate.

May establish by-laws &c

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That George T. Wood, N. A. Smith, B. L. Keer, Henry Grinstead, J. T. S. Brown, and Lewis Barrett, with their associates, be, and they are hereby, created a body corporate and politic, by the name of the Munfordville Bridge Company, for the purpose of erecting and constructing a permanent bridge across Green river, at or near Munfordville, in Hart county, at the precise point at which the Louisville and Nashville road is to cross said river, so as to connect with said road on each side of the river; and they, and those who may become stockholders as hereafter provided, and their successors, shall continue and have perpetual succession; and, by that name and style, are hereby made as capable, in law, as natural persons, to contract and be contracted with, to sue and be sued, plead and be impleaded, in this Commonwealth and elsewhere, in all courts of law or equity; and to make, have, and use, a common seal, and the same to break, alter, or amend, at pleasure; and the power to establish such by-laws, ordinances, and regulations, as shall be necessary for the good government of said corporation, not contrary to the laws or constitution of this State: provided, that the Bridge Com-

pany shall, at their own expense, build the embankment necessary to be made for the benefit of the travel on said road.

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Sec. 2. The capital stock of said company shall be six hundred shares, of fifty dollars each; and whenever two hundred shares shall have been subscribed by individuals, upon a certificate thereof, the Board of Internal Improvement shall subscribe two hundred shares; and, in the same proportion, if more than one hundred shares shall have been subscribed for, until the entire capital shall have been subscribed, if necessary to complete the work.

Capital stock,
how taken.

Sec. 3. The persons herein named, or a majority of them, shall cause a public advertisement to be made of the time and place of opening books for subscription; which books shall be kept open until at least one hundred shares are subscribed.

Time and
place of open-
ing books to be
advertised.

Sec. 4. When two hundred shares shall have been subscribed, the persons, or a majority of them, shall advertise a meeting of the shareholders; and they shall, thereupon, proceed to the election of five directors, and then proceed to elect, out of their own body, a President.

When and
how President
and directors to
be elected.

Sec. 5. At the election, each shareholder shall be entitled to one vote for each share, to the number of five; and one vote for every two shares over five, and not exceeding ten; and one vote for every four shares over ten; the shares may be voted by proxies.

Number of
votes on shares.

Sec. 6. The Directors, first chosen, shall hold their offices until the first Monday in June ensuing the election, and until others are chosen; and, on the first Monday in June, in each year, the stockholders shall meet at their office, and then proceed to the election of Directors; at such annual meeting a statement of the affairs of the company shall be made out and presented to the meeting, and such dividends as may be deemed advisable, declared.

Directors to
be elected an-
nually.

Sec. 7. The concerns of the corporation shall be under the control of said Board, or a majority of them, and they shall make such calls on the stockholders, payable at such periods as they may deem advisable, with such conditions of forfeiture for non-compliance, not exceeding the amount of such delinquent stock, as they may deem proper. They are, from time to time, to open books, or receive subscriptions for stock, until the whole amount is subscribed, if it shall be necessary to complete said bridge.

Call on stock,
how and when
made.

Sec. 8. The Board shall appoint a Clerk, and cause a record of their proceedings to be kept; and they may appoint a Treasurer, and such other officers and agents as they may think needful, and allow them such compensation as will be proper; to make contracts, and to do all things necessary for carrying the same into immediate execution; and to require and take such bond or other sureties, in their corporate capacity, from any person they may so appoint, or contract with; and, in the event of the death, resignation, or vacancy of a Director or President, to supply the vacancy.

Clerk to be
appointed.

Treas'r and
other officers.

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May purchase and receive a conveyance for site.

Bridge not to interfere with navigation.

Tolls.

Penalty on persons damaging bridge.

Penalty for passing bridge without paying toll.

Penalty for setting fire to bridge.

Certificates of stock.

May purchase and hold real estate.

May have land for site, &c. condemn'd and how.

Sec. 9. The Board shall have the right to purchase and receive the conveyance of a site for said bridge, abutments, and piers; and, if they shall deem it advisable, one acre of land at each end of the bridge over and above what is authorized by the sixteenth section.

Sec. 10. The company, in the erection of their bridge, shall build the same so as not to interfere with the navigation of said stream, by steam or other vessels.

Sec. 11. When said bridge is erected and completed, so the same may be safely crossed, the Board shall have the right to demand and receive the following tolls, viz: For a footman, six and one fourth cents; for every horse, mare, colt, mule, &c., six and one fourth cents; for every burden carriage, thirty seven and a half cents; for every four wheel wagon, fifty cents; for every four wheel riding carriage, fifty cents; for every two wheel pleasure carriage, thirty seven and one half cents; for every head of neat cattle, four cents; for every head of hogs or sheep, three cents; for every sleigh, sled, &c. twenty five cents; and for any other property in like proportion. Toll gates may be kept at either end of the bridge; and the rates of toll shall be posted up at some conspicuous place, where the toll is demanded.

Sec. 12. If any person shall willfully do any act or thing whatever, whereby the said bridge, or any thing thereto belonging, shall be injured or damaged, the said person or persons, so offending, shall forfeit and pay four times the amount of the damages sustained, with costs of suit, recoverable in any court of competent jurisdiction.

Sec. 13. If any person or persons shall pass, or attempt to pass said bridge, without paying the toll, (if there be any person present to receive it,) he shall forfeit and pay four times the amount of the toll, recoverable before any Justice of the Peace.

Sec. 14. If any person or persons shall, willfully, set fire to said bridge, or burn the same, or any part thereof, such person or persons, so offending, his, her, or their aiders or abettors, shall be held and deemed guilty of arson, and punished accordingly.

Sec. 15. That certificates of stock may be given and transferred, in such manner and form as the Board may direct.

Sec. 16. The Board shall have power to purchase and hold as much real estate as will be necessary for the site of said bridge, or abutments, piers, toll houses, &c.; but if the owners of any lands necessary for the abutments, toll house site, so as to connect the bridge with the road, on either side of the river, shall object to sell said land, at such a price as the Board may think reasonable, it shall be lawful for them to apply to the Hart County Court for a writ of *ad quod damnum* to issue, directed to the Sheriff of said county, requiring him to summon a jury of freeholders of the county, who shall be disinterested; and with the power to supply, by summons, other

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persons to act as jurors, if necessary, qualified as aforesaid; the jurors to be sworn by the Sheriff well and truly, according to the evidence, to ascertain the value of the land applied for by the company; whereof the Sheriff shall take the inquest, and return it to the next County Court; who shall, if no legal exception is taken, record the same; and, on the payment of the amount assessed, within one year from the return thereof, the title of the land applied for shall be vested in the company; and, on the payment being made, shall direct a conveyance; and, if the same is not made, to appoint a commissioner to make the same, which, when made and approved by the court, shall pass the title accordingly.

Sec. 17. That before books shall be opened for subscriptions of stock to said Bridge Company, and before the right hereby granted shall be vested, the corporators named in the first section of this act, shall procure, from the stockholders in the Elizabethtown and Bell's division of the Louisville and Nashville turnpike road, a release, in writing, of their right to construct a bridge at the place contemplated by this act; which release shall be proved and recorded in the Clerk's office of the Hart County Court.

Release to be had from stockholders in Elizabethtown and Bell's division of the Louisville and Nashville turnpike road, of their right to build bridge.

Sec. 18. That the people of Hart county shall have the right, at all times, to pass and re-pass over said bridge free from toll, on muster days, and in going to, and returning from, public worship; and that the people of said county, living south of Green river, shall pass over said bridge free of toll on going to, and returning from, courts and elections in said county of Hart: provided that the road leading to the Tobacco Landing, at Woodsonsville, shall, at no time, be stopped or obstructed.

Exempted from tolls.

Approved February 22, 1839.

CHAP. 1361.—AN ACT for the benefit of the heirs of Reuben Sullinger, deceased.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that the father of Reuben Sullinger, and Jesse Sullinger, devised to their mother a life estate in a certain tract of land now in Trimble county, and the remainder to them; that their mother sold the said estate to Jesse Sullinger, and he sold the same, and his remainder, to Rowlet, who is living on the same, and committing waste; that the said mother is still living, and the said Reuben is dead, and has left two infant children; that the land descending, in remainder, to the said children of the said Reuben is worth about one hundred dollars, and is fast depreciating by reason of waste—therefore,

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Petition in
chancery may
be filed, & for
what purpose.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That ——— Abbott, guardian of the children of the said Reuben Sullinger, and her husband, James Abbott, may file their petition, on oath, in the Trimble Circuit Court, making the said infant children parties thereto, and setting forth the facts above stated; and that the sale of the said interest of the said infant children, in remainder, would be for their advantage; and, on process executed, and proof, by affidavits or depositions, of the fact set forth, the court shall have power to decree the sale of the said interest, and make all orders necessary to carry the same into execution; and require such bond and surety as will secure to the said infant children the purchase money, and interest; and make such other orders as may be necessary and proper, to give sufficient and adequate relief.

Approved February 22, 1839.

CHAP. 1362.—AN ACT allowing additional Justices of the Peace to several counties, and for other purposes.

WHEREAS, it is represented that the citizens on Drenning's Ridge, in the neighborhood of Benjamin Davis's Tavern, in Henry county; the citizens of the town of Francesville, in Boone county; the citizens of the town of Union, in Boone county; and the citizens of Bath county, residing in the vicinity of Rice's Cross Roads, stand severally in great need of a Justice of the Peace—for remedy whereof,

Two Justices
to Boone.

One to Hen-
ry and Bath.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the county of Boone shall be entitled to two additional Justices of the Peace; the county of Henry, to one additional Justice of the Peace; and the county of Bath, to one additional Justice of the Peace.

AND, WHEREAS, it is represented, that the citizens of Woodford county, residing in the town of Mortonsville, stand in need of a Justice of the Peace, to reside in said town.

One to Wood-
ford.

SEC. 2. *Be it further enacted*, That the county of Woodford shall have an additional Justice of the Peace.

AND, WHEREAS, it is, also, represented, that the citizens of Lewis county, residing on the Grassy fork of the Laurel fork of Kinnekoonick creek, are in great need of a Justice of the Peace—for remedy whereof,

One to Lewis.

SEC. 3. *Be it further enacted*, That there shall be one additional Justice of the Peace allowed to the county of Lewis.

Proceedings
of Pike County
Court legalized

SEC. 4. *Be it further enacted*, That the proceedings of the Pike County Court, held on the first Monday in February, eighteen hundred and thirty nine, shall be as valid, to all intents and purposes, as if the said court had set on the fourth Monday in said month.

Approved February 22, 1839.

CHAP. 1363.—AN ACT further to provide for the Internal Improvement of the State.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That to enable the Board of Internal Improvement, of this State, to pay the subscriptions of the Commonwealth to turnpike and other roads, and to bridges, and to complete such as have been put under contract, or have been commenced with the authority and consent of the Board, or may be commenced with the authority of said Board, the sum of six hundred thousand dollars is hereby appropriated for the year one thousand eight hundred and thirty nine.

Appropriation to roads.

SEC. 2. That in addition to the sums heretofore appropriated to the Kentucky river navigation, and for the purpose of progressing with the five Locks and Dams now under contract on said river, and of putting three additional Locks and Dams under contract upon said river, in the year eighteen hundred and thirty nine, there is hereby appropriated the sum of one hundred thousand dollars; and in addition to the sums heretofore appropriated to the Licking river navigation, and for the purpose of progressing with the Five Locks and Dams now under contract on said river, and of putting three additional Locks and Dams under contract upon said river, in the year eighteen hundred and thirty nine, the sum of seventy thousand dollars is hereby appropriated.

Additional appropriation to Kentucky river navigation.

SEC. 3. That in order to complete the works, now under contract, on the Green and Barren river navigation, and for the purpose of putting under contract, two additional Locks and Dams on Green river, and one additional Lock and Dam on Barren river, and one Lock and Dam on Muddy river, in the year eighteen hundred and thirty nine, there is hereby appropriated the sum of forty thousand dollars in addition to the sums heretofore appropriated to the Green and Barren river navigation. And it shall be the duty of the Board of Internal Improvement, to superintend and control the letting of the contracts for said Locks and Dams, and the prosecution of the same under the same rules, regulations, and authority, vested in them, in relation to the public works now under contract.

Appropriation to Green, Barren and Muddy rivers.

SEC. 4. That for the purpose of raising the funds necessary for the prosecution of the works aforesaid, and such other works as may be authorized by the present General Assembly, the Governor is hereby authorized to sell the bonds, or scrip, of this Commonwealth, in the present year, in the United States, or elsewhere, to the amount of one million of dollars, at a rate of interest not exceeding six per centum per annum, redeemable at any time after thirty years.

State bonds to be sold to amount of one million.

SEC. 5. That if, in the judgment of the Board of Internal Improvement, the erection of a Lock and Dam on the South Fork of the Kentucky river, so as to improve the navigation at the "Narrows," would be of sufficient public utility, they

Appropriation for Locks and Dams on South Fork Kentucky river.

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are hereby authorized to put under contract during the present year, a Lock and Dam on said river, and to expend so much money as will be necessary to progress with the same during the year eighteen hundred and thirty nine.

Appropriation
to Bayou de
Chien.

SEC. 6. That if, in the judgment of the Board of Internal Improvement, the navigation of the Bayou de Chien, can be improved advantageously, and would be of sufficient public utility to justify it, said Board is hereby authorized to expend the sum of three thousand dollars, or so much thereof as may be necessary, in improving said stream, so as to make it a safe descending navigation. And if the Board of Internal Improvement should be of opinion that the Cumberland river, from the Great Falls to the mouth of Laurel, could be improved advantageously, and would be of sufficient public utility to justify it, they are hereby authorized to expend the sum of fifteen thousand dollars in making a safe and convenient descending navigation upon that part of said river.

To Cumber-
land river.

To road from
Greensburg
to Floyd Court
House.

SEC. 7. That if, in the judgment of the Board of Internal Improvement, the road leading from Greensburg, by way of the cross roads and Carter Court House, in Carter county, to Floyd Court House, in Floyd county, can be improved advantageously, and would be of sufficient utility to justify it, said Board is hereby authorized to expend the sum of twenty thousand dollars in opening, locating and improving said road.

To South Fork
of Cumberland.

SEC. 8. That if, in the judgment of the Board of Internal Improvement, the improvement of the South Fork of the Cumberland river, so as to secure a safe descending navigation, would be of sufficient public utility to justify it, and can be done advantageously, said Board is hereby authorized to expend a sum not exceeding six thousand dollars, in improving the navigation of said stream.

To road from
Owingsville to
mouth Big Sandy.

SEC. 9. That the sum of fifty thousand dollars be, and the same is hereby, appropriated, further to improve the road from Owingsville to the mouth of Big Sandy, and it shall be the duty of the Board of Internal Improvement to cause the same to be expended during the present year, with the view to the completion of said road in the year eighteen hundred and forty.

To roads from
Greensburg by
Columbia, &c.
to State line, &
from Irvine to
Perry county.

SEC. 10. That the sum of nine thousand dollars is hereby appropriated to the road from Greensburg, by way of Columbia, Jamestown and Monticello, to the Tennessee State line, in a direction to Knoxville; and ten thousand dollars to the road from Irvine, in Estill county, to the mouth of Troublesome, in Perry county, provided the Board of Internal Improvement be of opinion the expenditure will be of sufficient public utility to justify the same.

Bonds or Scrip
may be sold &
made payable
in sterling mo-
ney.

SEC. 11. That if, in the opinion of the Governor, it will be to the advantage of the Commonwealth, to make the bonds payable in sterling money, which are herein directed to be issued, that he is authorized to do so, estimating the pound sterling at four dollars and forty four cents; and the Commis-

sioners of the Sinking Fund shall, on the return of the agent charged with the sale of the said bonds, give him such compensation for his services as may appear to them reasonable and just; deducting therefrom, whatever may have been advanced to defray his expenses.

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SEC. 12. That if, in the opinion of the Governor, bonds bearing an interest of five per cent. per annum, can be sold upon terms more advantageous to the State, than six per cent. bonds, he is hereby authorized to sell bonds, bearing that rate of interest, to the amount of one million, one hundred thousand dollars, in lieu of the six per cent. bonds aforesaid, and payable as herein provided, in relation to said six per cent bonds.

Bonds bear interest at five, instead of, six per cent. may be sold.

Approved February 22, 1839.

CHAP. 1364.—AN ACT in relation to the Frankfort and Paris Fire Companies.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the members of the Frankfort Fire Company are hereby exempted from militia duty, and serving on juries: provided, that said company shall not exceed fifty members.

SEC. 2. *Be it further enacted*, That the provisions of this act shall extend to the Paris Fire Company.

Approved February 22, 1839.

CHAP. 1365.—AN ACT for the divorce of Matilda Jones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Matilda Jones, and her husband, Bennet B. Jones, be, and the same is, forever dissolved; and the said Matilda Jones is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Matilda Smith.

Approved February 22, 1839.

CHAP. 1366.—AN ACT to abolish certain streets, and parts of streets, in the town of Canton, in Trigg county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the following streets, and parts of streets,

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in the town of Canton, in Trigg county, be, and the same are hereby, abolished, as streets; and that all laws or ordinances requiring the same to be kept open, as streets, be, and the same are hereby, repealed: that is, Jefferson street, Monroe street, and, also, the parts of first and second cross streets, situated between Main street and the southern boundary of said town: provided, that the owners of lots fronting on any such street shall first consent, in writing, to the closing the same; which consent shall be acknowledged or proved, and recorded in the County Court Clerk's office of the county.

Approved February 22, 1839.

CHAP. 1367.—AN ACT for the divorce of Nancy T. Sanders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Nancy T. Sanders, and her husband, James Sanders, be, and the same is hereby, forever dissolved, so far as as relates to the said Nancy T. Sanders; and she is hereby restored to all the rights and privileges of an unmarried woman.

Approved February 22, 1839.

CHAP. 1368.—AN ACT for the divorce of Polly T. Ellison.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Polly T. Ellison, formerly Polly T. Coleman, and late wife of Thomas S. Ellison, who was divorced from her by an act of the Legislature of this State, shall be, and is hereby, released from all obligations as a *feme covert*, and shall henceforth be entitled to all the rights and privileges of a *feme sole*; and is hereby restored to her maiden name of Polly T. Coleman.

Approved February 22, 1839.

CHAP. 1369.—AN ACT to legalize certain proceedings of the Morgan County Court.

WHEREAS, it is represented to the present General Assembly of the Commonwealth of Kentucky, that the County Court of the county of Morgan, heretofore, by an order of said court,

caused the poor house land of said county to be sold; and as doubts do exist, as to the legality of said sale—therefore,

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the sale, or sales, made in pursuance of said order of the Morgan County Court aforesaid, is hereby made legal and valid in law; and said court is hereby empowered to make any order that may be necessary, appointing a commissioner to convey the legal title to the purchaser of said land; and if any of the poor house land, in the county aforesaid, remains unsold, the said court is hereby authorized, by themselves, or a commissioner by them appointed, to sell and convey the same, and apply the proceeds to lessen the county levy.

Approved February 22, 1839.

CHAP. 1370.—AN ACT for the benefit of Rector Gore, and others.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Rector Gore, and his securities, be, and they are hereby, released from all liabilities and penalties on a bond executed to the Commonwealth of Kentucky, for sixty muskets and accoutrements: provided, however, that the said Rector Gore, his securities, or their agent, shall, on or before the first day of June next, deliver to the Quarter Master General, in the town of Frankfort, fifty of said muskets and accoutrements, and as many more as he can collect, and obtain the Quarter Master General's receipt for the same.

Approved February 22, 1839.

CHAP. 1371.—AN ACT to amend an act, entitled, an act to increase the resources of the Sinking Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the commissioners of the Sinking Fund, with the consent of the Bank of Kentucky, to apply the surplus dividends which may now be in their hands, or which may hereafter be declared upon stock held by the State in said Bank, either to the payment of interest upon the bonds of the State, sold for internal improvement, or to the purchase of any profitable stocks for the enlargement of the Sinking Fund: provided, that said commissioners shall, at all times, have the right to re-invest said surplus dividends, with the accumulated profits, in stock in said Bank of Kentucky, until the second million, provided by the charter to be taken by the State, shall have been completed.

Approved February 22, 1839.

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CHAP. 1372.—AN ACT to amend an act, entitled, an act to amend and reduce into one, the several acts for the inspection of tobacco, approved February 10, 1798.

Inspectors to
give bond.

To take oath
& form there-
of.

Penalty on
persons for ex-
ercising office
with't authority

Insp'r's fees.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That every inspector of tobacco, hereafter appointed, shall, before he enters on the duties of his office, enter into bond, with good security, in the penalty of one hundred pounds, payable to the Commonwealth of Kentucky, with condition for the true and faithful performance of his duty, according to law; and also, take the following oath, that is to say: you shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse, or warehouses, where you are appointed inspector, when called upon to do so, and not otherwise, and that not separately and apart from your fellow, but in his presence; and that you will not pass any tobacco that is not, in your judgment, sound, well conditioned, and free from trash; nor receive, pass, or stamp, any tobacco hogshead, or cask of tobacco, contrary to the acts of Assembly in force for the inspection of tobacco in this Commonwealth; nor refuse to pass any tobacco that, in your judgment, is sound, well conditioned, merchantable, and clear from trash; and that you will not change, alter, or give out, any tobacco, other than such hogsheads or casks, for which the receipt to be taken was given; but that you will, in all things, faithfully discharge your duty in the office of inspector, according to law, and the best of your skill and judgment, without fear, favor, partiality or affection; so help you God. Which oath shall be taken before the County Court of the county wherein such inspector shall reside, or the warehouse or warehouses at which he shall be appointed inspector shall stand; and if any person shall presume to exercise the office of inspector, before he shall have given bond and taken the oath aforesaid, he shall forfeit and pay the sum of one hundred dollars.

SEC. 2. That, hereafter, it shall not be lawful for any inspector of tobacco to charge, demand, or receive, any other or greater fee for weighing or numbering, than thirty seven and one half cents for each hogshead by him weighed and numbered, unless the same shall be by him inspected; any custom or usage to the contrary notwithstanding.

SEC. 3. That all acts or parts of acts, coming within the purview of this act, be, and the same are hereby, repealed.

Approved February 22, 1839.

CHAP. 1373.—AN ACT for the benefit of Stephen R. Chenowith, Jailer of Jefferson county, and Henry Payne, Jailer of Union county.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts be, and he is hereby, authorized and required to issue a warrant on the Treasurer, in favor of Stephen R. Chenowith, Jailer of Jefferson county, for the sum of two hundred and six dollars, thirty seven and a half cents, to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 2. *Be it further enacted*, That the County Court of Union county be, and they are hereby, authorized to levy a tax on said county, to compensate Henry Payne, Jailer of said county, for keeping sundry slaves in said jail, under a charge of conspiracy.

Approved February 22, 1839.

CHAP. 1374.—AN ACT for the benefit of the Sheriff of Gallatin and Clarke counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, directed to allow to Richard Hawkins, Sheriff of Gallatin county, a credit of twenty seven dollars thirty one cents on the settlement of his accounts for the year eighteen hundred and thirty eight, it being for certain credits allowed by the County Court of said county which have been improperly certified.

SEC. 2. *Be it further enacted*, That the Auditor of Public Accounts issue to David Hampton, Sheriff of Clarke county, a warrant for his delinquent list for the year eighteen hundred and thirty eight, provided he shall produce the same, duly certified, on or before the first Monday in August next; and, also, that said Auditor issue to said Hampton, a warrant on the Treasury for ten dollars and seventeen cents, error charged to him in his settlement of the revenue for the year eighteen hundred and thirty eight, on account of the taxable property of Lewis Grigsby and William Reece.

Approved February 22, 1839.

CHAP. 1375.—AN ACT for the benefit of the infant heirs of Edward Hord, deceased.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Circuit Court of Mason

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Circuit court
of Mason may
decree sale of
infant's real es-
tate.

county be, and it is hereby, authorized to decree a sale of the interest of the infant heirs of Edward Hord, deceased, in the land assigned to Elizabeth Drake, late Elizabeth Hord, as her dower in the real estate of the said Edward Hord, deceased, situated on Mill creek, in the county aforesaid; and the said Circuit Court is hereby authorized to decree, also, a sale of the interest of the said infant heirs in that part of the lot situated in the city of Maysville, assigned to the said Elizabeth Drake, late Elizabeth Hord, as her dower in said lot, if, in the opinion of the court, it will be for the benefit of the said infant heirs that their interest in the land and lot aforesaid should be sold—upon the filing of the petition of Cornelius Drake, guardian of the infant heirs of Edward Hord, deceased; and for that purpose, the said court shall appoint a commissioner to sell and convey the same, and shall require the said commissioner to give bond, with good security, to pay over the proceeds of the said sale to the guardian of the said infant heirs.

Consent of
widow to be ta-
ken in writing
and filed in
cause.

SEC. 2. That before the court shall decree a sale of the interest of the infant heirs in the said dower land and lot, the said Cornelius Drake, and his wife, shall file their written consent in the cause, that the dower interest of the said Elizabeth shall also be sold; and it shall be the duty of the court to examine the said Elizabeth, apart from her husband, to ascertain whether she did freely and voluntarily consent to the said sale, and that she does also freely and voluntarily acknowledge the instrument, filed in the cause, to be her act and deed.

Approved February 22, 1839.

CHAP. 1376.—AN ACT to add a part of Pulaski to Russell county.

Boundary of
part added.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That all that part of Pulaski county contained within the following boundary, to-wit: Beginning two miles west of William Barrow's, upon the Russell county line; thence, running a straight line to Ebenezer Compton's, so as to include him in Russell county; thence, a straight line to where the roads fork near the Casey county line, one going to Liberty, in Casey county, the other to Somerset, in Pulaski county; thence, in a straight direction, to the Casey county line; thence, with the Casey line, to the Russell county line, and with the same to the beginning, be, and the same is hereby, added to the county of Russell. This act shall be in force from and after the first day of March, eighteen hundred and forty; and it shall be lawful for the Sheriffs, Constables, and other collecting officers of Pulaski county, to execute all process, levy and collect all executions, revenue, and county levy tax, and muster fines, which may be in their hands, in said boundary, at the time this act takes effect, in the same manner.

When this
act to take ef-
fect.

Taxes &c.
to be collected,
&c.

that they could, before the passage of this act; but the commissioners of tax for Russell county shall list all persons liable to taxation in the said boundary, in the year eighteen hundred and forty; and the Sheriff of Russell county shall collect and account for the same, as he does other taxes collected by him in said county.

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Approved February 22, 1839.

CHAP. 1377—AN ACT establishing the office of Second Auditor, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That there shall be a Second Auditor, who shall be appointed by the Governor, by and with the advice and consent of the Senate, for the term of two years, and receive an annual salary of fifteen hundred dollars, payable out of the Public Treasury, as in cases of other officers; but, before he enters on the duties of his office, said Second Auditor shall execute bond to the Commonwealth, in the penalty of fifty thousand dollars, with security, approved by the Governor, and conditioned for the faithful discharge of said duties, and for the surrender to his successor of the books, papers and other property, appertaining thereto; and the said Second Auditor shall perform all the duties, and exercise all the powers, in relation to the collection and disbursement of the ordinary public revenue, now vested in, and required of, the Auditor of Public Accounts; and all the acts, and parts of acts, now in force as to the Auditor of Public Accounts, in relation to the collection and disbursement of the ordinary public revenue, shall apply to the Second Auditor, in all respects, as though said acts, and parts of acts, had been enacted in reference to said Second Auditor; and to the Auditor of Public Accounts, shall be confided all the duties of said office, in relation to the Internal Improvement Fund, the Sinking Fund, and the School Fund, and all other duties now assigned, by law, to the Auditor, and not enumerated in this act, shall be performed by the Second Auditor; and the Second Auditor and Auditor shall, for the present, keep their offices in the rooms now occupied by the Auditor; and the books and papers belonging or relating to the duties of the Second Auditor, as prescribed by this act, shall be delivered over to him.

Second Auditor to be appointed—for 2 years.

His salary.

To give bond.

His duties.

Duties of Auditor.

Books & papers to be delivered.

SEC. 2. That it shall be the duty of the Second Auditor to furnish the Governor such information, in regard to the finances of the Commonwealth, as he may, from time to time, require; and at all times permit the Governor, by himself or proxy, to examine the books and papers of said office; and all the laws, now in force, relating to, or regulating the office and duties of said Auditor, shall apply to, and govern the office and

Further duties of 2d Auditor.

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duties of said Second Auditor, so far as said laws are not inconsistent with the provisions of this act.

Law author-
izing the ap-
pointment of
clerks repealed.

SEC. 3. That so much of any act as authorizes and requires the said Auditor to appoint one competent assistant Clerk in his office, at an annual salary of eight hundred dollars, shall be, and the same is hereby, repealed; nor shall the said Second Auditor have authority, in virtue of said act, to appoint such Clerk.

Act to be in
force 2 years.

SEC. 4. This act shall continue and be in force for two years, from and after the end of the present session of the Legislature.

Second Au-
ditor to make
settl'mts, draw
warrants, &c.,
which are to be
endorsed by the
Auditor.

SEC. 5. That the Second Auditor shall do and perform all the duties herein required of him in the settlement of accounts; and when such accounts have been audited and settled by him, he shall draw warrants accordingly; and when balances are due the Treasury, shall certify the same to the Treasurer, as now directed by law; and shall, thereupon, present said settlements and warrants, or certificates, to the Auditor, who shall, thereupon, endorse the warrants and certificates so drawn; and no warrant upon the Public Treasury, drawn by the Second Auditor, shall be regarded as authentic, until it shall have been so endorsed by the Auditor; and the Auditor shall have the control of said department; and in case of a difference of opinion, touching the legal duties of the Auditor and Second Auditor, the opinion of the Auditor shall prevail, subject, however, to the opinion of the Attorney General.

In case of a
difference of
opinion, att'y
Gen. to decide.

Approved February 22, 1839.

CHAP. 1378.—AN ACT, for the benefit of John Boggess and his securities, and James G. Hardy.

Boggess re-
leased from li-
ability to bond
to return public
arms.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That John Boggess, of Boone county, Kentucky, and A. W. Gaines and Abner Gaines, his securities, be, and they are hereby, released from all liabilities and penalties on a bond, executed to the Commonwealth of Kentucky, on the twenty ninth of August, eighteen hundred and twenty nine, for the safe keeping and delivery of thirty pair of pistols, thirty sabres, scabbards, &c., to the Quarter Master General, the greater portion of which arms having, as appears from the Quarter Master General's receipt, been returned.

Further time
given to Har-
dy to return
arms.

SEC. 2. *Be it further enacted*, That James G. Hardy be allowed until the first day of January, eighteen hundred and forty, to return to the public Arsenal sixty stand of arms heretofore drawn from the same.

Approved February 23, 1839

CHAP. 1379.—AN ACT to amend the act entitled, an act for the benefit of the heirs of James Allen, deceased.

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Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the act, entitled, an act for the benefit of the heirs of James Allen, deceased, approved February eighteen hundred and thirty seven, shall be so changed as to authorize the widow, who is administratrix of said Allen, to file her bill against the heirs aforesaid for the purposes in said act mentioned.

Approved February 23, 1839.

CHAP. 1380.—AN ACT to change the place of voting in the Ruddle's Mill Precinct, in Bourbon county.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the place of voting in the Ruddle's Mill Precinct, in Bourbon county be, and the same is hereby, changed from the house occupied by Andrew W. Turner, (as provided by the act establishing said precinct, approved February twenty two, eighteen hundred and twenty four,) to the house of Benjamin Bowen.

Approved February 23, 1839.

CHAP. 1381.—AN ACT for the benefit of the Orphans of Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the jurors attending in the courts held in Louisville, to assign the compensation allowed them by law, to such person or persons as they may designate in trust, and for the benefit of the Orphan Asylums in the city of Louisville, or for either of said Asylums as they may choose, and the amount which may be thus assigned, shall be paid over by the Trustees of the Jury Fund, and the courts shall modify their affidavits to correspond with this duty.

Approved February 23, 1839.

CHAP. 1382.—AN ACT to authorize the County Court of Ohio county to take stock in the Hartford Bridge Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for the County Court of

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Ohio county to subscribe for and take stock in the Hartford Bridge Company, to any amount not exceeding one thousand dollars, all the members of said court concurring therein; for which purpose the said court is hereby authorized and empowered to lay an additional county levy, at their March, May or June terms next, for one half the said sum, should they take stock in said company as herein authorized; and at their November term, next thereafter, to levy the other half of said amount, which sums they are authorized and empowered to cause to be collected in the same manner as the usual county levy is collected.

SEC. 2. That the County Court of said county, should they take the stock in said bridge company hereby authorized, they may either appropriate the profits thereof to the lessening the county levy, or direct the same to be expended in the improvement of the several main roads in the county equally.

Approved February 23, 1839.

CHAP. 1383.—AN ACT providing for the purchase of certain books for the use of this State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky. That the Public Librarian shall, on or before the first day of December, eighteen hundred and thirty nine, purchase, for the use of the Library of this State, with a portion of the funds set apart by law for the increase of said Library, one copy of the Debates of the Congress of the United States, from the commencement of the first session to the end of the present session of Congress; one copy of the Journal and Debates of the general Convention which formed our federal Constitution; one copy of the Life and Writings of Washington, by Sparks; five copies of of Say's Political Economy, and one copy of the late edition of Smith's Wealth of Nations, by McCulloch: provided, that if the Congress aforesaid shall have passed any law directing the distribution of the second work, mentioned in the foregoing act, among the different States, then the purchase of that work be dispensed with.

Approved February 23, 1839.

CHAP. 1384.—AN ACT for the benefit of B. H. Flowers, of Russell county, and William Gates, of Monroe county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky.* That Berryman H. Flowers, of Rus-

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sell county, be, and he is hereby, authorized to erect one gate across the road leading from Columbia, in Adair county, to John Grider's ferry, on Cumberland river, in Russell county, where it passes through said Flower's land; that said gate shall be at least nine feet wide, and so constructed as to open and shut with convenience; and that a majority of the County Court of Russell county, shall have full power to have said gate removed whenever they conceive the gate to be of public inconvenience.

Sec. 2. That William Gates, of Monroe county, is hereby authorized to erect one gate across the road from Tompkinsville, in Monroe county, to Martin's ferry on Cumberland river, where it passes through said Gates' land; said gate shall be nine feet wide, and so constructed as to open and shut with convenience; and that a majority of the County Court of Monroe county, shall have full power to dispense with said gate whenever they shall believe the same to be of public inconvenience.

Approved February 23, 1839.

CHAP. 1385.—AN ACT granting a change of venue in the prosecution against James Lynn, jr.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall be lawful for James Lynn, junior, to appear in the Hopkins Circuit Court, in custody of the Jailer, on the first day of the next term thereof, and make his election to be tried in the Christian Circuit Court, for the crime with which he stands indicted, which election shall be entered of record; and thereupon it shall be the duty of the Hopkins Circuit Court to order the said James Lynn, junior, into the custody of the Sheriff of Hopkins county, whose duty it shall be to convey said James Lynn, junior, to the jail of Christian county, and to deliver him into the custody of the Jailer of said county of Christian for safe keeping; and said Sheriff shall have power to summon necessary guards, and procure safe conveyances, for the removal of said Lynn, and be paid for such services, as the Sheriff is now paid for similar services, and the expenses to be paid, as other fees, out of the Treasury; and upon the indictment aforesaid, and the proceedings had thereon, being certified to the Christian Circuit Court, as hereinafter provided, the said Christian Circuit Court shall take cognizance of said indictment, and of every thing incident and pertaining thereto, in the same manner as though the offence, of which the said Lynn is indicted, had been committed in the county of Christian; and shall, in case he be found guilty, enter judgment and cause execution thereof, or grant a new trial, according to the justice of the case,

Venue may be changed on certain conditions to Christian.

Sheriff to convey prisoner.

Duty of Christian circuit c't.

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Duty of Hop-
kins circuit c't.

If indict. be
quashed new
one may be
found, &c.

Proceedings
in Hopkins to
be certified to
Christian.

Penalty on
clerk & sheriff
for failing to
perform their
duty.

Venire facias
to issue, &c.

Pay to wit-
nesses.

as though the said indictment had originated in the said county of Christian; and the Sheriff, Jailer, and Clerk, of the Circuit Court of said county of Christian, shall, in like manner, perform all the duties pertaining to their said offices, in relation to said indictment: and the Judge of the said Hopkins Circuit Court, shall, at the time the said James Lynn, junior, shall make his election to be tried in the Christian Circuit Court, recognize the witnesses, on the part of the Commonwealth, to appear at the next ensuing term of the Christian Circuit Court; and the last mentioned court shall proceed upon all recognizances in the same manner as though the same had been taken in said court; and in case the indictment shall be found defective, and shall be quashed, or the judgment arrested, the said Lynn shall not, for that cause, be discharged, but a special Grand Jury, if the regular Grand Jury shall have been discharged, shall be summoned, and a new indictment found, if the evidence will warrant the finding of such an indictment; and the defendant shall be arraigned, and tried thereon, in the same manner, and to the same judgment and execution, as though the offence had been committed in the county of Christian: provided, however, that nothing herein shall be construed to require any proceeding on the part of the Judge, that would not be required of him in case the offence charged had been committed, or charged to have been committed, in the said county of Christian.

SEC. 2. That it shall be the duty of the Clerk of the Hopkins Circuit Court to make out full and complete copies of all the orders made in his court, in said prosecution, and forward the same, together with all bonds, writs, recognizances, indictments, or other papers filed therein, by the Sheriff of his county, to the Clerk of the Circuit Court of Christian county, taking his receipt for the same; which duty shall be performed by said Sheriff with all possible dispatch, and he shall be allowed six cents per mile in going to, and returning from, said Christian county, to be paid out of the public Treasury on certificate of the Clerk of the Circuit Court of Hopkins county, that said services has been performed.

SEC. 3. That if either the Clerk or Sheriff of Hopkins county shall fail to comply with all, or any part of, the duties enjoined by this act, each of them shall be subject to a fine of one hundred dollars, recoverable by reasonable notice and rule of court, to that effect, in the Hopkins Circuit Court, in favor of the Commonwealth; which fine, or fines, sum, or sums, shall be applied as other fines are now directed to be applied, by law, of a like nature.

SEC. 4. That the Clerk of the Christian Circuit Court shall issue a *venire facias*, subpoenas, and all other process, as though the prosecution had commenced in his own county.

SEC. 5. That the witnesses attending the Christian Circuit Court, in consequence of this change of venue, by recognizance or subpoena, shall be allowed the same per day, and for

travelling, as other witnesses going out of the county by legal process.

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SEC. 6. That any number of continuances granted at the instance of the Commonwealth, by the Judge of the said Christian Circuit Court, on account of the non-attendance of witnesses, or for any other cause, shall not operate to the discharge or acquittal of said Lynn.

Continuances not to operate as a discharge.

Approved February 23, 1839.

CHAP. 1386.—AN ACT to authorize the entry of vacant fractions of land West of the Tennessee river, and for other purposes.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the receiver of money for the sale of vacant land in the land district west of the Tennessee river, be, and he is hereby, authorized to receive the entrance money for each, or any, vacant fraction of land within said district, and issue his certificate of entry upon the applicant producing a plat of survey under the hand of the County Surveyor of the county in which said land shall lie.

Rec'r west of Tenn. to receive entrance money & grant certificates.

SEC. 2. That the actual and *bona fide* settler on any fractional quarter section of land, who shall be an actual settler at the passage of this act, on vacant and unappropriated land, shall be entitled to the exclusive right of entering the same at any time within nine months from and after the passage of this act.

Actual settler allowed. exclusive right of entry.

SEC. 3. That any person owning an improvement on any fractional quarter of such unappropriated land, which shall compose a part of his or her farm, shall be entitled to the benefit of this act.

Right to persons owning an improvement.

SEC. 4. That no entry or survey shall be made under the provisions of this act, nor shall any patent issue so as to interfere with Military, or with Treasury warrant, claims, and any and every survey, entry made, or patent issued, in violation of this provision, shall be void.

Not to interfere with military or treasury claims.

SEC. 5. That the Land Office, kept in the town of Waidsboro', for the entry of lands west of the Tennessee river, shall be closed on the first day of December, eighteen hundred and thirty nine, and that the Receiver's books shall be deposited by him in the Register's office of this Commonwealth, within thirty days thereafter; and he shall be allowed the sum of eight cents per mile in travelling to, and returning from, Frankfort, in making said deposit, to be paid out of any money in the Treasury not otherwise appropriated.

Land office west of Tenn. R. to be closed and when, and books deposit'd in Reg. office.

SEC. 6. That the Register of the Land Office shall, and he is hereby authorized to, give and certify any copy of any entry, or other other record, on said books, that may be required, which shall be entitled to the same consideration and effect as

Register to certify copies.

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other copies that is now by law authorized to be issued and certified by said Register.

Approved February 23, 1839.

CHAP. 1387.—AN ACT to amend the charter of the Louisville and Elizabethtown Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Board of Internal Improvement be, and they are hereby, directed to subscribe for an additional amount of stock in the Louisville and Elizabethtown Turnpike road Company, at the rate of two dollars on the part of the State, for one taken by private individuals: provided, that so much may be necessary to complete said road from Louisville to the mouth of Salt river; and the charter of said Company is hereby so amended as to authorize the President and Directors to make a covered road, instead of a McAdamized road: provided, that the Board of Internal Improvement shall assent thereto.

Approved February 23, 1839.

CHAP. 1388.—AN ACT to incorporate the Bowlinggreen Life, Fire and Marine Insurance Company.

Corporators
names.

Name and
style and cor-
porate powers.

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That Jacob Vanmeter, Chasteen J. Dunavan, Thomas Quigley, John B. Helm, George W. Howarth and Robert Davis, with those who shall hereafter become stockholders as hereinafter directed, shall be, and they are hereby, created and made a corporation and body politic, by the name and style of the President and Directors of the Bowlinggreen Fire, Life and Marine Insurance Company, and as such shall continue until the first day of January, eighteen hundred and seventy, and by that name are hereby made capable and able, in law, to have, to purchase, receive, possess, enjoy and retain, to themselves and their successors, lands, tenements, rents, hereditaments, goods, chattels and effects, to an amount not exceeding, in the whole, three hundred thousand dollars, and the same to sell, grant, demise, alien and dispose; also, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity in this Commonwealth or elsewhere; also, to make, have, and use, a common seal, and the same to break, alter, or renew, at pleasure; also, to obtain, establish, and put

in execution, such by-laws, ordinances and regulations as shall be deemed necessary and convenient for the government of said corporation, which may not be contrary to law; and generally to do and execute all and singular the acts, matters, and things, that a corporation may rightfully do in the premises.

Sec. 2. The capital stock of said company shall be three hundred thousand dollars, in three thousand shares of one hundred dollars each, and the persons named in the first section of this act, or a majority of them, shall open books for subscription of the stock in said company, and at the time of subscribing they shall have a right to demand and receive five dollars on each share, and have secured the residue to the satisfaction of the corporation, payable in six months, which obligations may be renewed, from time to time, either for the whole or such part thereof as the President and Directors may determine; and it shall be the duty of the President and Directors to give at least thirty days' notice of any call that they may deem it expedient to make, and in case of the failure of any stockholder to make such payment, or to meet such call, or to secure the remainder, as aforesaid, and it shall be lawful for the President and Directors to sell such delinquent shares and transfer the same to the purchaser, or declare them forfeited to the company, together with all previous payments thereon; no transfer of stock shall be deemed valid and complete, so long as the person transferring the same shall be indebted to the said company, until the amount for which he is indebted is secured to the satisfaction of the President and Directors; and the stock of every stockholder shall be held as collateral security for the payment of whatever sum he may be indebted to said company by note, for stock, or otherwise.

Sec. 3. The corporators named in this act, or any two of them, shall, after a sufficient number of shares of stock has been taken, paid, and secured to be paid, as aforesaid, give a public notice for a meeting of the stockholders to choose a President and four Directors; and the said corporators shall be inspectors of the first election of the President and Directors, and shall certify under their hands the names of those duly elected, and deliver over the subscription books, money and notes, to the President and Directors; and in case of the death, or resignation, or removal from the county of Warren, or resignation of any President and Directors, such vacancy or vacancies shall be filled, for the remainder of the year wherein they may happen, by the Board of Directors; and in case of the absence of the President, the Board of Directors shall have the power to appoint a President *pro tempore*, who shall, for the time being, have the power and functions of the President.

Sec. 4. After the first election, the annual election for President and Directors shall be held on the first Monday in January, in each year, at the office of the company, or such other place in Bowlinggreen as the President and Directors may ap-

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Capital how
taken, subscrib-
ed and paid.

May be for-
feited, or sold
for nonpayment
of calls.

President &c.
to be elected,
when and by
whom.

Vacancies
how filled.

When annu-
al elections to
be held.

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point, and the President and Directors elected shall continue in office until their successors shall be elected.

Stock transferable.

SEC. 5. The stock of said company shall be transferable, and shall be considered as personal property.

Qualification of directors &c. and how stock may be voted on.

SEC. 6. In the election of President and Directors, and for deciding all questions in general meetings of the stockholders, each share shall entitle the holder to a vote; no person shall be eligible to the office of President or Director, unless he be the owner of at least four shares, and he or they shall vacate the office by ceasing to be a stockholder to the number of shares aforesaid; and no stockholder shall vote at any election for President and Director, after the first election, unless the share or shares which he or she may represent, shall have been standing in his or her name on the books of said corporation for at least one month previous to such election; and shares may be voted on by executors or administrators of the deceased member, or by proxy.

Officers to be appointed.

SEC. 7. That the President and Directors, for the time being, shall have power to appoint such officers and agents under them, and at such places, as shall be necessary for executing the business of said company, and to allow such compensations as may be agreed upon, and to require and to take bond and security for the faithful discharge of their respective duties and trusts; and the said President and Directors shall have power to make by-laws and ordinances, to govern the corporation, and may repeal, alter and amend them; and the President and two Directors shall constitute a quorum for the transaction of business, or three Directors, without the President, one of whom shall be chosen President for the time being.

To give bond.

By-laws.

Rate of—up or what insurance may be made.

SEC. 8. That the President and Directors, for the time being, shall have power and authority, in the name of the company, to make insurance at such rate of premium or interest as may be agreed upon by the parties, upon buildings, furniture, machinery, goods, wares, and merchandise, of any description, against fire in town or country; and, also, to make all kinds of insurance of every description of property, transported by land or water, within the United States; and likewise to make insurance on lives by sea or water, or on shore, and to contract for, grant, and sell annuities; and to make all kinds of contracts in which the casualties of life or property are involved; and every such contract, bargain, agreement, or policy, to be made by the said corporation, shall be in writing or print, and shall be signed by the President, and signed and attested by the Secretary, or Clerk, who may be appointed by the President and Directors for that purpose.

When and how dividends may be declared.

SEC. 9. It shall be the duty of the President and Directors on the second Mondays of January and July, in each and every year, to make a dividend of so much of the profits of the said corporation as to them, or a majority of them, shall appear advisable; and in case of any loss or losses, whereby the cap-

ital stock of the corporation shall be impaired or lessened, no subsequent dividend shall be made until a sum equal to such diminution, and arising from the profits of said corporation, shall have been added to the capital.

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Sec. 10. That said corporation shall not issue notes or bills of credit, nor in any manner engage in the business of banking; nor shall said corporation commence business, or grant any policies of insurance, until one thousand shares are subscribed and paid for, or secured to be paid, as provided for in the second section.

Not to issue notes or bills.

Sec. 11. That whenever said corporation shall be notified of any loss sustained, or incurred on any policy of insurance granted or insured by the same, it shall be the duty of said corporation to pay the amount, so lost or incurred on such policy, within ninety days after being so notified: provided, there shall have been no violation of the condition of the policy on the part of the insured.

When insurance to be paid in cases of loss.

Sec. 12. That the whole of the stocks, together with all property, rights, and credits, belonging thereto, shall be liable and answerable for the demands against said company, and no stockholder or member of this company shall be answerable in his person or individual property beyond the stock owned by him at the time of any loss or liability incurred by said company.

Property, stock, &c. liable to demands.

Sec. 13. The said President and Directors shall keep full, fair, and correct, entries of their transactions, which shall be at all times open to the inspection of the stockholders.

Transactions subject to inspection.

Sec. 14. That the President and Directors may call a meeting of the stockholders for any purpose of the affairs of the institution, giving at least two weeks notice thereof in any newspaper printed in Bowlinggreen; should it happen, from any cause whatever, that the annual election of Directors should not take place upon the day in the year as before mentioned for that purpose, the said corporation, for that reason, shall not be dissolved, but such election may be lawfully held on such convenient day thereafter as may, for that purpose, be fixed on by the President and Directors, they causing ten days public notice of the time and place thereof to be given.

Meetings of stockholders may be called, &c

Sec. 15. That all policies of insurance, or contracts, which may be made or entered into, and signed and subscribed as provided for in the eighth section of this act, shall be binding and obligatory on said corporation, without the seal thereof, according to the tenor, intent, and meaning, of such policies or contracts; and such policies or contracts may be so signed, and the business of said corporation may otherwise be conducted and carried on, without the presence of a Board of Directors, by assistant, agents, officers, or committees, to be appointed for that purpose; and the acts of such assistants, agents, officers, or committees, if done under, or in conformity of, the

How and by whom policies may be made and executed.

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by-laws of the corporation, shall be binding on it to all intents and purposes.

SEC. 16. The number of Directors may be increased, from time to time, to any number not exceeding eight, whenever the stockholders shall so desire and determine by a majority of their votes, given at some regular or called meeting; and the legal guardian of any infant stockholder may vote upon and represent the stock held by such infant.

Statement of
affairs to be
made out an-
nually.

SEC. 17. That it shall be the duty of said company, by its President, to make out, on oath, in the month of October, in each year, a report of the affairs of said company, showing the amount of its business, its liabilities, and its means, of every description, and have the same recorded in the County Court Clerk's office for Warren county.

Tax to be
paid on shares.

SEC. 18. That the capital stock of said company shall pay an annual tax into the Treasury of this Commonwealth of twenty five cents on each and every share; and it shall be the duty of the President of said company to list the same for taxation.

Reservation.

SEC. 19. The Legislature of this Commonwealth shall have power to alter or abolish this charter whenever they may think proper so to do.

Approved February 23, 1839.

CHAP. 1389.—AN ACT for the benefit of Ambrose Wickersham.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Ambrose Wickersham, late a contractor upon the Georgetown and Paris Turnpike road, hath sustained great loss in the construction of section thirteen of said road, in the county of Scott, resulting from the unexpected character and description of rock excavated by him, in making that part of said road, not known or anticipated, either by the said Wickersham or the said Turnpike Company, at the time he contracted to construct the same—wherefore,

Estimate of
loss to be made
by Board Int.
Imp.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Board of Internal Improvement are hereby authorized and directed to cause an estimate to be made of the loss sustained, if any, by said Wickersham, in the construction of section thirteen of the Frankfort, Georgetown and Paris Turnpike road, in Scott county, and which resulted from the unexpected character and description of rock excavated by him, and which was not known at the time he contracted to do said work.

Am't to be
paid out Int.
Imp. fund.

SEC. 2. That if Board of Internal Improvement shall approve the estimate so directed to be made, they are hereby authorized to pay to the said Wickersham one half of the amount thereof out of the Internal Improvement fund of the State.

SEC. 3. That the sum of money which may be allowed to said Wickersham shall be vested in the hands of David Meriwether, for the use and benefit of said Wickersham's wife and children.

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Approved February 23, 1839.

CHAP. 1390.—AN ACT to incorporate the Louisville and Mississippi Railroad Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That for the purpose of establishing a communication by railroad from Louisville to the Mississippi river, in the State of Kentucky, a company be formed with a capital of four millions of dollars, and styled the Louisville and Mississippi Railroad Company.

Company & capital stock.

SEC. 2. That the books for subscription to the said capital stock shall be opened in Louisville, West Point, Hardinsburg, Owensboro', Rumsey, Madisonville, Princeton, Eddyville, Paducah, and at such other places in Kentucky as the Commissioners hereinafter named shall designate, on the first Monday in July next, and shall be kept open sixty days, between the hours of nine o'clock in the morning, and four in the evening, of each of those days. The shares shall be one hundred dollars each.

Books to be opened.

SEC. 3. That the following persons shall be Commissioners to open books for subscription to the capital stock, and for other purposes, as may be hereinafter granted, viz: in Louisville, Robert N. Miller and John Tyler; in West Point, James Hall and James Young; in Hardinsburg, Joseph Allen and Samuel McClarty; in Owensboro', Robert Triplett, William R. Griffith and Simpson Stout; in Rumsey, Dillis Dyer, John M. Johnson and T. W. Kincheloe; in Madisonville, Alfred Townes, Samuel Woodson and Willis Younger; in Princeton, John H. Rackerby; in Eddyville, Chittenden Lyon; in Paducah, B. Small; in Wadsboro', Edmund H. Curd; in Mayfield, John Anderson; in Columbus, William Robertson, Baker Woodruff and H. B. Cresap. The Board of Internal Improvement shall have power to appoint three or more persons in any other towns in Kentucky, or of the United States, to open books for the same purpose, and to prescribe the time for opening the same.

Commissioners.

SEC. 4. That the Commissioners, or a majority of them, at each of the places named, or such as may be named and designated, shall receive subscription for stock in said Railroad Company during the time the said books are directed to be kept open; and on each share, so subscribed, shall demand and receive the sum of one dollar, without which the said subscription shall be void.

Com'rs. to receive subscriptions for stock.

SEC. 5. That as soon as the time for receiving subscriptions

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Forward list
of subscribers
to cen. com.

Central com.

When ten
thousand shares
are subscribed
company to be
a body corpo-
rate.

Further sub-
scriptions au-
thorized.

If company
is not organis'd
money to be re-
funded.

Corporate
powers.

shall have expired, said Commissioners shall, respectively, de-
posite all the money so received by them, in some incorporated
Bank, redeeming its notes with specie, in the State where the
notes shall have been received, to the credit of the Louisville
and Mississippi Railroad Company; and shall forward a cor-
rect list of all subscribers to said stock, with the number of
shares each subscriber has taken, to a central committee at
Louisville, composed of the following persons: ————,
who, or a majority, shall meet at Louisville the first Monday
of October next, and ascertain the whole number of shares
taken in said Company; and publish the same in the several
newspapers in Louisville as soon thereafter as practicable, and
if there shall be found to be subscribed ten thousand shares,
and one dollar on each share paid, as aforesaid, then the Com-
pany, styled the Louisville and Mississippi Railroad Company,
shall be regarded as formed; and the said central committee,
or a majority of them, shall sign duplicate declarations to that
effect, with the names of all the subscribers appended, and
cause one of those duplicates to be deposited in office of the
Secretary of the Commonwealth of Kentucky, and from
thenceforth, from the day as aforesaid, the said subscribers of
the stock shall form a body politic and corporate, in deed and
in law, in the State aforesaid, by the name, and for the pur-
pose, aforesaid.

Sec. 6. But if, on closing the books as aforesaid, the number
of shares, as above, shall not be found to have been subscribed,
then the central committee, or a majority, may authorize an
agent, or by themselves, a farther subscription, at such time
and place, or places, as they may consider proper: provided,
the same shall be done by the first of October, eighteen hun-
dred and forty one: and if ten thousand shares, or more, shall
be found to have been subscribed, then the subscription shall
be closed. The subscribers shall thenceforth form a body cor-
porate as aforesaid, and the declaration shall be made and de-
posited in the office of the Secretary of State, as aforesaid.

Sec. 7. If, on closing the books on the first day of October,
eighteen hundred and forty one, there shall not be found shares
equal to ten thousand subscribed, the money paid by such sub-
scribers shall be returned by order of the central committee,
as aforesaid; and the said committee shall publish in the pa-
pers aforesaid, a failure in the formation of the Company:
provided, also, any expenses for printing, &c., incurred, shall
first be paid out of the funds raised, and deducted, *pro rata*,
according to the amount subscribed.

Sec. 8. The said Louisville and Mississippi Railroad Com-
pany, so formed as aforesaid, shall have perpetual succession
of members; may have a common seal; may sue and be sued,
plead and be impleaded, in any court of law or equity, and
may make all such regulations, rules and by-laws, as are ne-
cessary for the government of the corporation, or effecting
the object for which it was created, provided such regulations,

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rules, and by-laws, shall not be repugnant to the Constitution of this State, or the United States: provided, that notice, or service of process upon the President or principal agent, shall be deemed and taken to be due and lawful notice, or service of process upon the Company, so as to bring it before the Court.

SEC. 9. The affairs of the Company shall be managed and directed by a general Board to consist of nine Directors, to be chosen annually, who shall choose a President from their number: provided that any person who shall be chosen a Director shall be, *bona fide*, the owner of at least fifteen shares of the capital stock of the said Company.

President & Directors.

SEC. 10. That the central committee, as soon as they ascertain that the requisite number of shares are subscribed, shall call a meeting of the stockholders, who shall convene at some suitable place in this State, and elect, by ballot, nine Directors to serve for one year, each stockholder voting the shares for which he has subscribed or become possessed by regular transfer, provided that any person owning shares and finding it inconvenient to attend in person may give a written proxy, authorizing any other person to vote for him, her, or them, as the case may be. All vacancies which may occur in the Board during the time for which they were elected, shall be filled by the remaining Directors. The time and place for a meeting of the stockholders, after the organization of the Directory, shall be fixed by said Board, provided that an election for Directors shall be so arranged as to allow no Director to serve, without a new election, more than one year.

Meeting of the Co. to be called to elect directors.

Vacancies to be filled.

SEC. 11. That the President and Directors of said Company shall appoint one Treasurer and one Secretary to keep the funds and record the proceedings of the said Company, and the books of said Company shall, at all times, be subject to the free inspection of any of the stockholders; and the President and Directors shall publish a true and just statement of the accounts and business of said company annually, and from time to time make and pay, or cause to be paid, to the stockholders, such dividends as the condition of said Company will justify without diminishing the capital stock of said Company: provided, also, that the business operations upon the road shall be so regulated that not more than fifteen per cent. shall be divided with the stockholders for any six months the road may be in use.

Treas. & Sec. & their duties.

Dividends.

SEC. 12. All contracts and agreements made or authorized by the President and Secretary, shall be binding on the Company, provided such general authority shall be so vested by the Board of Directors; and said Board may authorize any other person, or persons, to contract or make sale in the name of the Company, provided the amount of contracts shall not exceed the capital of said Company.

Contracts.

SEC. 13. The Company shall have power, and may proceed to construct, as speedily as their means will permit, a

Construction of the road.

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Branches.

railroad, with one or more tracks, to be used with steam, animal, or other power, which shall have its commencement at Louisville, and its termination shall be on the Mississippi river, in the State of Kentucky. It shall pass, or branches shall be made to, the following towns, viz: West Point, in Hardin county; Hardinsburg, in Breckinridge county; Owensboro', in Daviess county; Rumsey, in Muhlenburg county; Madisonville, in Hopkins county, and Princeton, in Caldwell county.

Co. to have
exclusive right
to use the road.

Charges for
transportation.

May lease
the road.

Calls on stock.

SEC. 14. That the said Company shall have the exclusive right of transportation or conveyance of persons, goods, wares, merchandise, produce, and minerals, over the said railroad and its branches, by them to be constructed; provided that the charge for transportation or conveyance shall not exceed thirty cents per one hundred pounds, for every hundred miles, for heavy articles, or eight cents per cubic foot on articles of measurement, and five cents per mile for every passenger; and provided, also, that the said Company may lease or farm out the road, or any of its branches, at those rates.

SEC. 15. The Board of Directors may call for instalments on the stock subscribed, not exceeding ten dollars on each share, in every sixty days. The call for each instalment shall be advertised in two or more newspapers at Louisville, or such other places as the Board may direct, at least one month before the time the same is to be paid. Any failure in the payment of the instalments, so called, may be considered as a forfeiture of the stock, and all payments made thereon may be vested in and belong to the Company, and the same may be restored to the owners by the Board of Directors, if they deem proper, on the payment of all arrears on such shares, and ten per cent. damages thereon.

Capital stock
may be increas-
ed.

May borrow
money.

SEC. 16. The said Company may at any time increase the subscription to a sum sufficient to complete the road, or its branches, provide ware-houses, depots, engines, cars, and every thing which may be found necessary for the full completion and perfect organization of the road, either by opening books for new stock, or by selling such new stock, or by borrowing money on the credit of the Company, or the mortgage of its charter and work; and the manner in which it shall be done shall be prescribed by the stockholders at a general meeting.

May vest
their capital &
profits in stocks

SEC. 17. It shall be lawful for the said Company, from time to time, to vest so much, or such parts, of their capital, or their profits, as may not be required for immediate use (until it may be so required,) in public stocks, or loan to any specie paying bank in this State, as shall be deemed best by the Board of Directors.

Amount of
stock to be re-
presented at
meetings of the
stockholders.

SEC. 18. At all meetings of Stockholders, two thirds of the stock shall be represented, or in case of a failure of two thirds being represented, then a new meeting shall be called; and at the second or third meeting for the same object, three fifths of

the stock shall be a sufficient representation to make the proceedings of the stockholders legal.

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Sec. 19. No member of the board, or agent of the company, shall be directly or indirectly concerned in any contract on the road; and the stockholders may make such by-laws relative to the purchase of land or materials, by any agent or director of the company, so as to preclude them from becoming speculators in land or materials to the evident injury of the company.

Members of the board and agents not to be contractors.

Sec. 20. That the Legislature may authorize the subscription of stock in the road, on the part of the State, provided that no more than one third of the capital stock taken shall be so subscribed on the part of the State, unless that the individual stockholders, and other corporations shall refuse to take the necessary amount to commence operations upon the road; then, and in that case, the Legislature may authorize a further subscription so as to secure the proper commencement and completion of said road.

The State may sub. stock.

Sec. 21. The Legislature shall designate the manner in which the State stock shall be represented at any meeting of stockholders: provided, also, that the relative proportion of stock only shall be voted by such authorized person, or persons, agreeably with the number of shares so held. In the election of directors, and in voting on questions which may come before the stockholders, the votes shall be taken according to the following scale: up to five shares, each share shall be entitled to one vote; over five, and up to ten shares, every two shares shall be entitled to one vote; over ten, and up to twenty, three shares shall be entitled to one vote; over twenty, and up to fifty, five shares shall be entitled to one vote; over fifty, and up to one hundred, ten shares shall be entitled to one vote; over one hundred, and up to one thousand, fifty shares shall be entitled to one vote; all over one thousand, one hundred shares shall be entitled to one vote.

State stock—how voted on.

No. of votes to which stockholders are entitled.

Sec. 22. That the same powers, granted to the Board of Internal Improvement relative to the condemnation of land or materials, when the same cannot be purchased for the necessary use of the road, shall be vested in the President and Directors of said company, provided that no more land shall be condemned than is actually wanted for the road, which shall be deemed, in no instance, to be less than sixty feet in width, unless the Board of Directors, and their Engineer, shall certify that less than sixty feet will answer the desired purpose.

Condemnation of land & materials.

Sec. 23. That said company may purchase, have and hold, in fee, or for a term of years, any lands, tenements or hereditaments, which may be necessary for said road, or any branch or appurtenance thereof, or for the erection of depositories, store-houses, houses for officers, servants, or agents, for the company, or for work-shops, foundry for said company, or for procuring timber, stone, or other materials necessary to the construction of said road, its branches, or for any purpose affecting the transportation thereon, and for mining coal, which may be done by said company: provided that not more than

Prop'ty which company may hold.

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five thousand acres of land shall be held, as owned for the mining business; and in that case the mining and transporting coal, shall be a business kept entirely separate from other transactions connected with the business of the company; and the stockholders shall have the privilege of engaging in or terminating the coal operations at any time they shall, by their vote, designate.

May construct the road along or across any road or water course. SEC. 24. That said company shall have the right, when necessary to conduct the said railroad, or any branch thereof, across, or along any public road or water course, provided that the road or navigation of such water course shall not be obstructed or made unsafe to the business operations along said road or water course.

May erect bridges and charge tolls. SEC. 25. That in case the company shall find it necessary to build bridges or viaducts across Salt river, Green river, Cumberland or Tennessee river, they may add thereto sufficient width for a wagon-way, foot-way, &c., and allow the public to pass over said bridge or viaduct, by paying a reasonable toll, to be regulated by the Board of Directors and be approved by the Board of Internal Improvement of the State of Kentucky, before said toll shall be collected.

Lands of the state within 100 feet of the centre of the road to be vested company. SEC. 26. All lands not heretofore granted to any person, nor appropriated by law to the use of the State, within one hundred feet of the centre of said railroad, or its branches, shall vest in the company, so soon as the line of the road is definitely laid out through it, and any grant thereafter shall be void.

SEC. 27. All penal laws passed in this Commonwealth, or which shall be made hereafter, relative to injury which may be done to her public works by malicious individuals, or mischievous persons, shall be applicable to persons injuring said railroad and its branches.

May charge for storage. SEC. 28. That the said company shall have the right to take, at the store houses they may establish on, or annexed to, their railroad, or the branches, all goods, wares, merchandize, produce, and minerals, intended for transportation, prescribe the rules of priority, and charge and receive such just and reasonable compensation for storage, as they, by their rules, may establish, (which they shall cause to be published,) or as may be fixed by agreement with the owner, which may be distinct from the rates of transportation, provided they shall not unnecessarily detain goods, wares, &c., for the purpose of making charges for storage.

SEC. 29. That the property of said company shall only be liable to taxation the same as individuals in this Commonwealth.

Not to engage in banking or insurance. SEC. 30. The said company is hereby expressly prohibited from carrying on any species of banking operations, or effecting any insurance on lives or property, except on goods, transported on said railroad or branches, or in the company's custody in consequence of such transportation.

SEC. 31. Any individual, individuals, bodies corporate, or State, may construct branches to unite with the main road, or

any branch thereof, with the permission of the Legislature of this State; and it shall be the duty of said company to receive on the road and its branches, if required, the fully loaded freight cars from such branch, so to be united with them, and to transport the same to their point of distribution on the road, and return them, if required, without changing the load thereon, or charging for the transportation of similar goods, wares, merchandize, minerals or produce in their own cars, provided, such cars shall be adapted to said company's road, in every respect, as well as their own cars in general use; provided, also, that said company shall be entitled to like privileges by such individual, individuals, corporations, or State, who shall construct said branches uniting with the road.

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Privileges of
branch roads.

SEC. 32. That the company shall begin the construction of the road within three years from the first day of June, eighteen hundred and thirty nine; and shall complete one tract, or single line, through the main line and branches, within ten years from the date of this act.

Work, when
to be commenced and completed.

SEC. 33. When the road or branches, or any part thereof, shall be complete, it shall be the duty of said company to keep it in constant and regular repair, so that transportation can, at all times, be carried on, except at short intervals, when accidents may occur to the road, or any needful repairs shall hinder the regular transportation; but in such case, the company shall make every exertion to repair the same without unnecessary delay, and in case the company shall unreasonably neglect to put the road in proper order, it shall be lawful for any Judge of the Court of last resort, having general chancery powers in the State where such repair is required, after notice to the company, to make an order that no charge shall be made for transportation of goods, wares, merchandize, produce, or minerals, on any part of said road within thirty miles of said interruption, which order shall not release the company from their obligation to transport, on all the part of the road which may be in repair, provided that no such order shall be made when it shall appear to the Judge that the company has used due diligence to make the said repair, or that the part injured is incapable of being restored, or that another line of road, or another mode of conveyance, may be beneficially to the public, substituted in place of the part injured, or out of repair—which order of the Judge shall be and continue in force only until the expiration of ten days after the next meeting of the court of last resort, of which the said Judge shall be a member, unless the same shall be confirmed by the said court; and any Judge of the said Court, at Chambers, may repeal such original order, or confirm such order, on evidence that the injury is repaired, or the substitute provided, and transportation is resumed on that part of the road embraced in said order.

Road to be
kept in repair.

SEC. 34. It shall be lawful for any corporate town, city, or company, to subscribe stock in said road, provided, in the first

1839 place, that individuals shall not subscribe the necessary amount to complete the road or its branches. In like manner, the several counties through which the road passes, may subscribe stock by their County Courts; and said town, city, company, or County Courts shall, or may appoint agents to vote in the same manner as individuals owning stock in said road: provided, that the said company shall commence making the said road within six years from the passage of this act, and complete the same within ten years thereafter.

Corporations may subscribe for stock.

Proviso.

Approved February 23, 1839.

CHAP. 1391.—AN ACT to incorporate the Jefferson Turnpike Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That a company shall be, and the same is hereby, incorporated to construct a turnpike road from the intersection of the West Port road with the Shelbyville and Louisville turnpike road, at Gilmore's, in the county of Jefferson, to the county line between Jefferson and Oldham counties, in the direction of New Castle, in Henry county, by the name and title of the Jefferson Turnpike Company, and by that name and style may sue and be sued, contract and be contracted with, plead and be impleaded, and have and use a common seal, and alter, amend, or renew, the same at pleasure.

Company incorporated.

SEC. 2. That the capital stock of said company shall be seventy thousand dollars, divided into shares of one hundred dollars each, and each share shall entitle the holder to one vote in all meetings of the stockholders.

Capital stock.

SEC. 3. That Levin Lawrence, John Shrader, John Williamson, Edward D. Hobbs, Stephen Ormsby, and John Herr, are hereby appointed Commissioners, whose duty it shall be to open books for the subscription of stock, at such places as they, or any three of them, may deem expedient; and they may appoint one or more agents, to solicit subscriptions, and so soon as thirty thousand dollars shall be subscribed, by individuals and companies, they shall give ten days' notice of the

Com's to open books for subscription of stock.

First meeting of stockholders. President & Managers to be elected.

time and place of the meeting of the stockholders for the purpose of electing a President and four Managers for said company, and the management of the fiscal and prudential concerns of said company shall be confided to said President and Managers; and their successors to be elected annually, at such time and place as the by-laws shall direct.

SEC. 4. That the said road shall be opened not less than sixty feet wide, and shall be graded at an elevation not exceeding two degrees, and said turnpike shall be stoned not less than eighteen feet in width; and when said road shall be completed, the said President and Managers shall have the right to erect

Road how to be made.

Tolls.

toll gates on said road, and to collect for the travel on said road, the same rate of tolls, for each five miles of said road, that the Shelbyville and Louisville turnpike road are authorized to collect by their charter, and the amendments thereto, or at that rate for a longer or shorter distance; and the general provisions of the charter of the Shelbyville and Louisville Turnpike Company shall apply to the company hereby created, and are made part hereof, except so much thereof as may be inconsistent with the provisions of this act, subject to the same limitations and restrictions, and with the same benefit and advantage, in all respects; and this company shall have six years, from the passage of this act, to complete the road; and they may call on the Board of Internal Improvement to have said road located by an Engineer of the State, so soon as they shall have raised the thirty thousand dollars of stock, and elected a President and Directors for the management of the affairs of the company.

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The provisions of the charter of the Shelbyville & Louisville company to apply to this company.

Road to be located when the company is organized.

Approved February 23, 1839.

CHAP. 1392.—AN ACT to amend an act to establish a system of Common Schools, in the State of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the interest which has accrued upon the Common School Fund, together with the interest which shall hereafter semi-annually accrue, except as hereinafter provided, shall constitute a part of the Common School Fund, created by the act concerning Common Schools; and it shall be the duty of the Board of Education, from time to time, as the said interest shall accrue, to vest the same in State bonds, created for Internal Improvement purposes, or in State Bank stocks, as they may deem most for the advantage of said fund: provided, however, that so much of the interest accruing upon the Common School Fund, semi-annually, as the said board may deem necessary to meet the payments due, or to become due, for the succeeding half year, to such school districts as shall have organized according to law, and other contingent expenses of the Common School system, shall be retained uninvested. And if the said Board of Education determine to vest said fund in State bonds, the Governor is hereby authorized to cause said bonds to be executed to said Board of Education, in trust for the benefit of the Common School Fund. And if they should determine to vest the same in Bank stock, they are hereby authorized to take a transfer of said stock in trust for the fund aforesaid.

Board of Education to vest the interest on the school fund in stocks.

Approved February 23, 1839.

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CHAP. 1393.—AN ACT to amend the charter of the Newport, Falmouth, Cynthia, Paris, and Winchester Turnpike road.

President & Directors authorized to construct dirt turnpike.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That it shall and may be lawful for the President and Directors of the Newport, Falmouth, Cynthia, Paris, and Winchester Turnpike Company, to construct a dirt, or clay turnpike road, instead of a McAdamized road, as now authorized by law, if they shall choose to do so; but nothing in this act shall be so construed as to prevent said company from McAdamizing said road, at any time thereafter that they may think proper so to do.

Board of I. I. to cause a survey and location of said road, &c.

SEC. 2. That the Board of Internal Improvement shall cause the said road to be surveyed, and located, as soon as the same can be done without injury or neglect of other public works which are now progressing.

Approved February 23, 1839.

CHAP. 1394.—AN ACT to amend the charter of the Bardstown and Green River Turnpike Road Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the charter of the Bardstown and Green River Turnpike Road Company shall be so amended as to authorize said company to construct a branch of said road from the Bear Wallow, in the county of Barren, to intersect the turnpike from Munfordsville to Bell's, in the same county, at some convenient and suitable point; and for that purpose they may increase their capital, by the order of the President and Managers, to an amount sufficient to construct the same.

Approved February 23, 1839.

CHAP. 1395.—AN ACT for the completion of the Franklin portion of the Crab Orchard Turnpike, and to amend the charter of the Springfield, Perryville and Danville Turnpike Road Company.

Board of I. I. for Franklin county appointed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That Joseph G. Roberts, Adam C. Keenon, Samuel B. Scofield, Matthew Davidson, and John H. Paxton be, and they are hereby, appointed a Board of Internal Improvement for Franklin county, according to an act to provide for the improvement of the road from Franklin county to the Crab Orchard, in Lincoln county, approved February twenty second, eighteen hundred and thirty four, instead of the Board heretofore appointed, who have not procured the necessary amount of stock.

SEC. 2. The said Board shall have all the powers conferred on the former Board by the first and all the amendatory acts; and it shall be their duty to proceed, forthwith, to have the balance of the stock subscribed and the road completed.

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SEC. 3. *Be it further enacted,* That the charter heretofore granted to a company to construct a turnpike road from Danville, by way of Perryville to Springfield, under an act entitled, "an act to incorporate the Springfield, Perryville and Danville Turnpike Road Company, approved twenty ninth February, eighteen hundred and thirty six," be amended as follows: the subscribers for stock, residing in Mercer county, shall constitute a separte body politic, and shall have power and authority to construct said road from Danville to Perryville, and for that purpose, shall have all the powers, rights and privileges that are conferred in the original charter incorporating said company.

Charter of turnpike road from Danville, by way of Perryville to Springfield, amended.

Subscribers for stock in Mercer constituted a separte body politic, for certain purposes.

SEC. 4. That Charles Caldwell, Thomas Daunton, Charles Henderson, John Burton, and Evan Rogers be, and they are hereby, appointed Commissioners to open books for the subscription of stock in said road, at such times and at such places as they may deem expedient; and so soon as a sum sufficient to complete one half the road is subscribed by individuals, companies, or corporations, when added to the State subscription, they shall certify the same to the Board of Internal Improvement, who shall, thereupon, subscribe the amount upon the part of the State, heretofore authorized; and the said road shall be located by an Engineer in the employment of the State.

Names of com's appointed to open books for subscription of stock

When the B. of I. I. shall subscribe stock.

Approved February 23, 1839.

CHAP. 1396.—AN ACT to amend the law incorporating the town of Bardstown.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That in penal cases, arising within the jurisdiction of the Police Judge of Bardstown, it shall be lawful for the Marshal of said town to execute original or final process, any where within the county, and in civil causes to summon witnesses and execute final process any where within the county.

Marshal authorized to serve process in certain causes in said county.

SEC. 2. That the Police Judge of Bardstown shall be entitled to a fee of one dollar upon every application for an injunction *ne exeat*, restraining order, or writ of *habeas corpus*, to be paid in advance, or collected as other fees; and in every case in which the injunction *ne exeat*, or restraining order, so applied for, shall be granted, the fee aforesaid shall be charged in the bill of costs, against the defendant, unless said injunction

Fees allowed Police Judge.

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ne exeat, or restraining order, shall have been discharged. **He** shall, also, be entitled to fifty cents, for taking bond and **affi-**
davit to hold to bail, to be also paid in advance, or collected
as other fees, and to be taxed against the defendant, if judg-
ment be against him, unless the order for holding to bail shall
have been discharged. He shall, also, be entitled to twelve
and a half cents for each subpoena for witnesses to give their
depositions, or to testify before him, to be collected as other
fees, and taxed against the unsuccessful party, and twenty five
cents for each replevin, or other bond, required and executed,
to be taxed against the obligor or obligors therein.

Approved February 23, 1839.

CHAP. 1397.—AN ACT providing adequate pay to witnesses summoned to ap-
pear before the Committee on Internal Improvement, during the present session
of the Legislature.

WHEREAS, it is represented to this General Assembly, that
sundry witnesses have been summoned by the committee on
Internal Improvement, who, residing at a considerable dis-
tance from the seat of government, to give testimony before
said committee, during the present session of the Legislature,
concerning certain resolutions directing an inquiry into the
official conduct of James R. Skiles, and that the compensation,
now allowed by law, is not sufficient to defray their expenses
—therefore,

*Be it enacted by the General Assembly of the Commonwealth
of Kentucky*, That each of said witnesses shall be allowed six
and a fourth cents per mile for travelling to and returning from
the seat of government; one dollar and fifty cents per day for
each day they may have been necessarily detained in Frank-
fort—which sum shall be paid out of any money in the Trea-
sury not otherwise appropriated.

Approved February 23, 1839.

CHAP. 1398.—AN ACT for the benefit of the Sheriff of Campbell county.

WHEREAS, a judgment has been rendered in the General
Court in favor of the Commonwealth of Kentucky, against
Jonathan Carmack, late Sheriff of Campbell county, for the
non-payment of the revenue tax, for said county, for the year
eighteen hundred and thirty seven, with eighteen per cent.
damages; and, whereas, there were certain exonerations made
by the County Court for said county, for revenue tax for the

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year eighteen hundred and thirty six, amounting to the sum of thirty seven dollars, ninety six cents, which, not being certified properly by the Clerk of said court, have never been allowed said Sheriff; and, whereas further, the Clerk of said court certified to the Auditor for the year eighteen hundred and thirty seven, through mistake, an additional list of revenue tax for said county, amounting to the sum of one hundred and forty one dollars eighty five cents, for which two sums aforesaid, the said Sheriff should be credited—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Jonathan Carmack, late Sheriff as aforesaid, shall be entitled to a credit on the judgment rendered against him in the General Court, for the non-payment of the revenue tax of Campbell county, for the year eighteen hundred and thirty seven, for the sum of one hundred and seventy nine dollars eighty one cents.

SEC. 2. That said Carmack, and his securities be, and they are hereby, released from the payment of the eighteen per cent. damages recovered against them for the non-payment of the revenue tax of Campbell county, for the year eighteen hundred and thirty seven.

Approved February 23, 1839.

CHAP. 1399.—AN ACT for the benefit of the Clerk of the City Court of Louisville.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Auditor of Public Accounts issue to Benjamin R. Pollard, Clerk of the City Court of Louisville, a warrant for the amount certified, or to be certified, in his favor by said court, for *ex officio* services, heretofore rendered by him as Clerk aforesaid, provided said allowances shall not exceed the rate of forty dollars per annum.

To be paid
for *ex officio*
services.

SEC. 2. That, hereafter, the Clerk of the City Court of Louisville shall be entitled to the same compensation, out of the Public Treasury, for *ex officio* services, which is payable to the Clerks of Circuit Courts for like services.

Approved February 23, 1839.

CHAP. 1400.—AN ACT for the benefit of the Lexington and Ohio Railroad Company.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Board of Internal Improvement shall

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be, and they are hereby, authorized and required to loan to the Lexington and Ohio Railroad Company, on the bonds of the Company, endorsed by the City of Louisville, a sum not exceeding twenty thousand dollars, for the purpose of finishing the bridge across the Kentucky river: provided said Company shall agree to pay a rate of interest on said sum of not less than six per cent. per annum, the interest payable half yearly, and the principal redeemable in twenty five years from the time of the loan; and provided that there shall be funds sufficient, in the hands of the Board, to make the loan without prejudice to other works of Internal Improvement.

Approved February 23, 1839.

CHAP. 1401.—AN ACT for the benefit of John B. Whitford, and his securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John B. Whitford, principal, and Leonard Stephens and Thomas D. Carneal, his securities, be, and they are hereby released from all liabilities on a bond, executed to the Commonwealth of Kentucky, on the ninth day of December, eighteen hundred and twenty five, for the delivery of forty stand of arms and accoutrements, thirty three of which arms have, as per Quarter Master General's report, been delivered to said officer.

Approved February 23, 1839.

CHAP. 1402.—AN ACT increasing the allowance to the Jailer of McCracken county for keeping runaway slaves.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That from and after the passage of this act, the Jailer of McCracken county shall be entitled to fifty cents per day for keeping runaway slaves, instead of thirty seven and a half cents per day, as now provided for by law.

Approved February 23, 1839.

CHAP. 1403.—AN ACT for the benefit of Otho Wilson.

WHEREAS, it is represented to the General Assembly of the Commonwealth of Kentucky, that Otho Wilson purchased,

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In the State of Maryland, a negro woman named Rebecca, and her child named Cloe, for his own use, and with a view of taking them to the State of Alabama, to which State he intended to remove; and, whereas, it further appears that said Wilson was prevented from removing to Alabama, by circumstances beyond his control, and having incurred heavy penalties by bringing said slave into this State—therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the purchase and importation of said negro woman Rebecca, and her child Cloe, by the said Otho Wilson, be, and the same is hereby legalized, and the said Wilson is hereby released from any fine or penalty imposed by law upon such purchase and importation.

Approved February 23, 1839.

CHAP. 1404.—AN ACT for the relief of the securities of Wesley M. Garnett, deceased, and Henderson Murphy.

WHEREAS, it is represented to the present General Assembly that Wesley M. Garnett, as principal, and John Faulkner and John Bates, as securities, on the ninth day of December, eighteen hundred and twenty four, entered into bond to the Commonwealth in the penal sum of two thousand dollars, for sixty muskets and accoutrements; and, whereas, afterwards, to-wit, on the fourth day of May, eighteen hundred and twenty nine, Henderson Murphy, as principal, and Jeremiah Muncy and Elhannon W. Murphy, as his sureties, entered into bond to the Commonwealth, in a like penalty, for a like number of muskets and accoutrements; and, whereas, it is further represented that Wesley M. Garnett has departed this life insolvent, and that Henderson Murphy has departed this Commonwealth, to parts unknown, and that suit has been directed, in the General Court, against the parties to said bonds; and it is believed that the said Murphy, upon entering into the bond aforesaid, procured the possession of the same muskets and accoutrements, for which the said Garnett had previously executed his bond, as aforesaid—wherefore, for the relief of the sureties in the bonds aforesaid,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That they shall have the period of twelve months to collect, and return to the arsenal in Frankfort, the muskets and accoutrements aforesaid, and that it shall be the duty of the Adjutant General to receive and receipt for the same, when delivered; and if the said Adjutant General shall be satisfied, beyond doubt, that the arms and accoutrements for which the said Murphy gave bond, are the same for which the said Garnett had given bond, it shall be his duty

The period of 12 months allowed them to return arms.

Adj. Gen. to receive and receipt for the same.

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Proceedings
staid on the
bonds for 12
months.

to dismiss the suit now pending upon the bond of the said Garnett.

Sec. 2. That proceedings shall be staid in the General Court upon the bonds aforesaid, for the period aforesaid, and that in rendering judgment upon said bonds, it shall be the duty of said court to allow a credit for all the muskets and accoutrements so returned, in full discharge of so many muskets and accoutrements obtained.

Approved February 23, 1839.

CHAP. 1405.—AN ACT for the appropriation of money.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the following sums of money, not otherwise appropriated, be paid out of the public treasury to the several persons entitled to the same, viz:

Speakers.

To the Speakers of the Senate and House of Representatives, six dollars per day, each, during the present session.

Clerks.

To the Clerks of the Senate and House of Representatives, ten dollars per day, each.

To the Clerks of the Senate and House of Representatives, for making indexes to the Journals of the present session, one hundred dollars, each, to be paid when the work is done.

Sergeants.

To the Sergeants of the Senate and House of Representatives, twenty eight dollars per week, each.

Doorkeepers.

To the Doorkeepers of the Senate and House of Representatives, twenty eight dollars per week, each.

To Theodore Kohlhaas and John C. Herndon, Assistant Clerks of the Senate and House of Representatives, seven dollars per day, each.

To the Clerks of the Senate and House of Representatives, sixty dollars, each, for six days' services, after the close of the session, in preparing the Acts for publication, and arranging the books and papers.

To William B. Holeman, for furnishing water, making fires, &c., for the House of Representatives, during the present session, six dollars per week.

To John J. Vest, for furnishing water, making fires, &c., for the Senate, during a portion of the present session, six dollars per week, for the time he was so employed.

To Jacob H. Holeman, for furnishing water, making fires, &c., for the Senate, during a portion of the present session, six dollars a week, for the time he was so employed.

Librarian.

To the Librarian three hundred and fifty dollars for the year eighteen hundred and thirty nine, to be paid quarterly.

To the Editors of the Commonwealth and Franklin Farmer, forty dollars, each, for furnishing their papers, once a week, to the members of the Senate and House of Representatives, during the present session.

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To the Commissioners of the Lunatic Asylum, for supporting the lunatics in said institution, during the ensuing year, the sum of seven thousand dollars.

To the Commissioners of the Cumberland Hospital, for the use of said Hospital, fifteen hundred dollars.

Cumberland
Hospital.

To William M. Todd, for stationery for House of Representatives, as per voucher No. 1, two hundred and thirty eight dollars and twenty five cents.

Stationery.

To William M. Todd, for stationery for the Senate, as per voucher No. 2, two hundred and ninety three dollars and sixty two cents.

To Charles H. Julian, for stationery furnished House of Representatives, two hundred and eighty one dollars and seventy five cents, No. 3.

To Charles H. Julian, for stationery furnished the Senate, fifty three dollars and thirty seven cents, No. 4.

To Joseph Gray, four dollars, No. 5.

To Warham P. Loomis, sixty five dollars, No. 6.

To Michael Barstow, seventeen dollars and ninety cents, No. 7.

To J. W. Dellinger, forty four dollars, No. 8.

To George W. Gwin & Co., thirty two dollars and fifty cents, No. 9.

To John Swingle, as per voucher No. 10, one hundred and sixty eight dollars and seventy five cents.

To John P. Cammack, as per voucher No. 12, thirteen dollars and sixty two cents.

To Hugh L. Goodwin, as per voucher No. 13, thirty two dollars and fifty cents.

To Russell & Sneed, four dollars, No. 14.

To Charles Hutcheson, as per voucher No. 15, two hundred and forty eight dollars.

To A. C. Keenon, as per voucher No. 16, four hundred and sixty one dollars, eighty cents.

To George A. Robertson, as per voucher No. 17, sixty dollars.

To E. P. Johnson & Co., forty four dollars, No. 18.

To members of the Joint Committee to examine the banks, &c., the respective sums following their names:

To David Trimble, nineteen dollars and thirty seven cents.

To B. H. Reeves, eighteen dollars and twenty five cents.

To Joseph Lecompte, twelve dollars and seventy five cents.

To E. Bayse, twelve dollars, seventy five cents.

To A. Beatty, twelve dollars and seventy five cents.

To James Guthrie, twelve dollars and seventy five cents.

To A. G. Hodges, as per vouchers Nos. 20, 21, 22, six thousand three hundred and ninety six dollars and eighty three cents.

To Anderson & Lockwood, twenty four dollars and eighty five cents, No. 23.

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To W. S. Johnson, eighty one dollars and sixty seven cents, No. 24.

To James Davidson, as per voucher 25, and other vouchers, four hundred and twenty six dollars and seventy six cents.

To John M. Black, Second Assistant Clerk of the House of Representatives, for two days' service, ten dollars.

To Adam C. Keenon and Charles H. Julian, for binding two thousand copies of the Acts of the General Assembly, so much as it will amount to at fifty cents a volume; and, also, fifty cents for each volume of the Journals of the two Houses, one half of which shall be paid in advance, and the balance upon their producing to the Auditor of Public accounts a certificate, from the Secretary of State, showing the delivery of the Acts and Journals, aforesaid, in his office; provided, however, that if the full number of copies hereby authorized to be bound shall not be so delivered, a deduction shall be made at the rate of fifty cents for each copy of the Acts and Journals that are not bound by them.

To A. G. Hodges, Public Printer, in advance, the sum of three thousand dollars, for public printing to be done by him during the year eighteen hundred and thirty nine.

To James Coleman, the sum of eight hundred dollars, for services rendered in the Secretary of State's office, as Clerk, up to the fifteenth of February, eighteen hundred and thirty nine.

To James T. Morehead and John Speedsmith, as a compensation for their services as Commissioners to the State of Ohio, the sum of eight hundred dollars, each.

To Joseph Gray, Sergeant-at-Arms of the House of Representatives, one dollar a day, for the services of his son, James Gray, in said House, as an assistant.

To George A. Holeman, one dollar per day, during the present session, for his services as Assistant Doorkeeper.

Lunatic Asy-
lum. To the Commissioners of the Lunatic Asylum, for the purpose of buying ground, and erecting additional buildings, and improving the comforts of the inmates, five thousand dollars.

Cumberland
Hospital. To the Trustees of the Cumberland Hospital, the sum of one thousand three hundred and five dollars and eighty six cents, to be applied by the Trustees of said Hospital in extinguishing the debt, now remaining due from said institution, as per Trustees report, made to the present session.

To John D. Blackford, for expenses in going to the State of Tennessee, with authority from the Governor of this State, to demand a fugitive from justice; ten dollars.

To James Davidson, the sum of nine dollars, eighty nine cents, for postage paid by him on official correspondence.

To the Secretary of State, for the purpose of employing a Clerk in his office, sixty six dollars per month, to be paid monthly, the ensuing year, should the service of a Clerk continue to be needed in said office.

To Littleberry Batcheler, Sergeant-at-Arms of the Senate,

for summoning witnesses, travelling to Green river, and expenses, two hundred and thirty seven dollars, voucher No. 26.

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To Thomas S. Page, for making tables to Bank Report, thirty five dollars.

Sec. 2. *Be it further enacted,* That the Auditor of Public Accounts shall be, and he is hereby, authorized and directed to settle with A. G. Hodges for public printing executed during the session eighteen hundred and thirty eight, not included in his bill rendered, and issue his warrant upon the treasury for such sum as may be found due said Hodges on such settlement.

To William Hardin, for apprehending Harvey Pritchett, a fugitive from justice, under the Governor's warrant, and for expenses attending the same, the sum of thirty eight dollars, eighty two cents.

To Thomas Burns, turnpikegate keeper on Muldrow's Hill, amount of a counterfeit note received by him.

To E. A. Macurdy, Deputy Register, two hundred dollars.

To Richard Long, Deputy Register, one hundred dollars.

To the two servants, who have waited on the Senate and House of Representatives during the present session, the sum of ten dollars, each, to be received by the Seargeant-at-Arms of the Senate, and paid to them.

Approved February 23, 1839.

CHAP. 1406.—AN ACT to incorporate a company to construct a Turnpike Road from the mouth of Salt river to Smithland.

Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That a company shall be, and the same is hereby, formed and incorporated for the purpose of making a dirt turnpike, on the most approved plan, from the mouth of Salt river, by the way of the towns of Owenborough and Henderson, to Smithland, at the mouth of the Cumberland river, under the name and style of the President, Directors and Company of the Ohio Turnpike Road.

Company to be incorporated.

Sec. 2. That the capital stock of said company shall be two hundred thousand dollars, divided into shares of one hundred dollars each.

Capital.

Sec. 3. That books for the subscription of the capital stock of said company shall be opened on, or before, the first Monday in October, eighteen hundred and thirty nine, at the towns of Brandenburg, Hardinsburg, Hawesville, Owenborough, Henderson, Morganfield, and Smithland, unless the commissioners hereafter appointed shall name an earlier day; and that the following persons be, and they are hereby, appointed Commissioners for that purpose, viz: at Brandenburg, Isaac Overton,

Books to be opened, when, where, and by whom.

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Obligation of
subscribers.

John C. Lawson, Junius B. Alexander, and Gabriel Wathen; at Hardinsburg, Samuel McClarty, Vivian Daniel, James M. Cox, and Joseph Allen; at Hawesville, Richard F. Robinson, Albert G. Hawes, William Mason, and John Sterrett; at Owenborough, Simpson Stout, Barnabas May, Henry Dugan, and William R. Griffith; at Henderson, Larkin White, Robert Smith, Livingston G. Taylor, and James Alves; at Morganfield, Samuel Casey, Hezekiah D. Edwards, Gibson B. Taylor, and Hugh McElroy; and at Smithland, Isaac Copfield, N. Gray, Fields Barnett, and Presley Gray. The Commissioners named, at each or either of the above named places, or any three of them, shall proceed to open one or more books, and in each of them enter as follows: "We, whose names are hereunto subscribed, promise to pay to the President, Directors, and Company of the Ohio Turnpike Road, the sum of one hundred dollars for every share of the stock, in said company, set opposite our respective names, in such manner, in such proportions, and at such times, as may be determined on by the President and Directors of said Company, and agreeably to the act of the General Assembly of the Commonwealth of Kentucky incorporating said company." The said Commissioners shall give notice in at least two newspapers printed in this Commonwealth, for at least four weeks, next preceding, of the time and places at which books will be opened for the subscription of the capital stock in said company; at which time, and places, some one, or more, of the Commissioners, aforesaid, shall attend, and permit all persons of lawful age, or bodies corporate and politic, who may desire so to do, to subscribe in said books, in their own name, or that of any other person, or corporation, who shall duly authorize it, for any number of the shares of the capital stock in said company,

Com's to give
notice.

Officers to be
elected.

SEC. 4. That when two hundred shares of the capital stock, of said company, shall have been taken, the Commissioners shall give at least four weeks notice in two, or more, of the newspapers before mentioned, that the number of shares required, by this act of incorporation, to authorize the organization of the company have been subscribed, and that an election for President and fourteen Directors will be held at the town of Henderson on such day as the said Commissioners may appoint. At which election the subscribers for stock shall vote either in person, or by proxy, for a President, and also for two Directors in each of the counties through which the proposed road will pass, each of whom shall own at least three shares of stock in said company.

Created a
body corporate.

SEC. 5. That when the company is thus organized they shall be, and are hereby, declared to be a body politic and corporate, and shall be called and known by the name and style of the President, Directors and Company of the Ohio Turnpike Road, by which name they shall have perpetual succession, and shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same,

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by subscription, from time to time, to any amount, which may be necessary to grade and make the road contemplated by this act; of purchasing, or renting for a term of years, any lands, tenements, or hereditaments, which may be necessary to them in the prosecution or completion of the road aforesaid; and, also, of selling and conveying, by deed signed by the President, and sealed with the seal of the said corporation, any lands, tenements, or hereditaments, which they may own, agreeably to the provisions hereof. They shall have power, in the corporate name aforesaid, to contract and be contracted with, to sue and be sued, plead and be impleaded, in any court of record, or any other place whatever; to make and use a common seal, and the same to break, alter, or renew, at pleasure; to declare and pay out dividends to the stockholders; to make such by-laws, rules, and regulations, not inconsistent with the constitution and laws of this Commonwealth, and the United States, as shall be necessary for well ordering the affairs of said company, and in general to do and perform any and every other act, matter, and thing, which corporations created for similar purpose may, or can, lawfully do.

Corporate
powers.

Sec. 6. That when the company is organized, as aforesaid, it shall be the duty of the President to inform the general Board of Internal Improvement of that fact, and request them to cause said road to be surveyed; whereupon it shall be the duty of the State Board of Internal Improvement, as soon as practicable, to cause said road to be surveyed and located by one of the State Engineers, who shall make a report of said survey and location to said State Board.

Road to be
surveyed and
when.

Sec. 7. That if the State Board of Internal Improvement, after having received the report of the Engineer, as above provided for, shall be of the opinion that the road will be of sufficient public utility, they shall be, and are hereby, required to subscribe for, and on behalf of, the State, for the capital stock of said road, at the rate of two dollars for every one subscribed by individuals, corporations, or companies; and the said Board of Internal Improvement are hereby authorized, and required, to make new and additional subscriptions for capital stock for, and on behalf of, the State, and at the rate aforesaid, as individuals, corporations, or companies, may thereafter subscribe, or add to their subscriptions, until the whole capital stock, in said road, shall be subscribed for and taken.

Stock to be
subscribed for
by the state.

Sec. 8. That said road shall be constructed on a grade of not more than three degrees per mile; and shall be at least thirty feet wide, with sufficient ditches on each side, the earth from which shall be thrown into the road so as to raise it sufficiently for the water falling upon it to pass off by the ditches. The road between the ditches shall, at no place, be less than twenty two feet in width, and shall be raised as directed by the Engineer.

Road how to
be made.

Sec. 9. The President and Directors of said company shall hold their offices for, and during one year, from the period of

Offices & term
thereof.

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their election, and until their successors shall be duly elected; and at the period of their election, the stockholders shall also elect a Treasurer, who shall hold his office for the same time with the President and Directors; and who shall execute to the said President and Directors, a bond with surety, in such penalty, and with such conditions, as the said President and Directors may direct and require.

SEC. 10. The Commonwealth shall have the right to vote at all elections, and to give the number of votes to which the amount of stock held by her, may entitle her, in the same manner, as is done in other turnpike companies in which the Commonwealth holds an interest.

Certain sec.
of Louisville &
Nashville road
adopted.

SEC. 11. That all the provisions, from the fifth to the twenty eighth sections, inclusive, of an act, entitled, "an act to incorporate a company to establish a Turnpike road from the city of Louisville, by the mouth of Salt river, Elizabethtown, Munfordsville, and Bowlinggreen, to the State line, in a direction to Nashville," approved February the second, eighteen hundred and thirty three, except so far as the same, or any part thereof, may come in collision with any of the provisions of this act, and so far as the same are applicable to the object and intent hereof, be, and they are hereby, adopted and enacted as parts of this act; and all the regulations for the government of said corporation, from the fifth to the twenty eighth sections, inclusive, of said above recited act, which are not inconsistent herewith, are hereby adopted for the government of the company hereby created, except that the toll gates on the Ohio Turnpike Road, shall not be erected within less than ten miles of each other.

May call on
subscribers.

SEC. 12. That the President and Directors of said company may call on the individuals, companies, or corporations, who have subscribed for capital stock in said company, for the payment of the amount of their subscriptions, and appoint the time and place when and where such payment is to be made: provided, that said President and Directors shall not have power to call in more of said stock than ten dollars in every sixty days, nor until after they shall have given notice of said call in some newspaper printed in this State, for at least thirty days.

Sub-commissioners may be appointed and their duties.

SEC. 13. That a majority of the four commissioners, appointed in the third section of this act, to open books for the subscription of the capital stock of said company, in each of the towns mentioned in said section, shall have the right to appoint three sub-commissioners, in any other town, city, or county, in this State, who, also, shall open books for the same purpose, and under the same regulations as are herein prescribed for the government of the commissioners named in said third section; which said sub-commissioners shall, when their books are closed, send the same to the commissioners who appointed them; and the amount of capital stock subscribed for, with said sub-commissioners, shall be applied to the construction of

any part of said road which the President and Directors may choose.

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SEC. 14. That if the commissioners, named in the third section hereof, shall fail to open books for the subscription of the capital stock, at the time mentioned in said section, in all or any of the towns therein mentioned, they may open the said books at any time within two years from the passage of this act, complying, in all respects, except the time of opening said books, with the provisions of this act: provided, that a majority of said commissioners shall agree upon the time of opening the books.

Commissioners may open books at other times.

SEC. 15. That so soon as the President and Directors are elected, they shall proceed to put under contract, and, from time to time, thereafter, as the funds collected by them will permit, shall make new and additional contracts for so much of the said road as the money actually paid in by the State, and individuals, corporations, or companies, will enable them to pay for; which contracts are to be made in conformity with the provisions of this charter.

Duty of president and directors.

Approved February 23, 1839.

CHAP. 1407.—AN ACT authorizing the condemnation of lands for toll houses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That it shall be lawful for all incorporated companies, now created, or which may be created, for the construction of turnpike roads and toll bridges, and for the Commonwealth, when engaged in similar undertakings, to cause to be condemned, for the use of the Commonwealth, or such company, any quantity of land, not exceeding one quarter acre, convenient, or adjacent to any toll bridge, or toll gate, on any turnpike road, for the purpose of erecting thereon a dwelling house and out houses, for the use of the gate keeper, and to be appropriated to his sole and exclusive use; and for the condemnation of such land, for the purposes aforesaid, the Commonwealth and said companies shall proceed according to, and be governed, in all respects by, the act, entitled, "an act to provide for condemning land and materials for the construction of turnpike roads, bridges, and other works of internal improvement," approved February twenty two, eighteen hundred and thirty six, so far as the provisions of said act apply to the condemnation of lands for the construction of turnpike roads, except that by the writ of *ad quod damnum*, required to be issued by the Clerk of the Circuit Court, the jury shall be summoned and empanelled to enquire and assess what damages the proprietor of said land will sustain by the condemnation thereof, for the purposes aforesaid; and in the oath

Quantity of land that may be condemned and how condemned.

Jury to be summoned and sworn & their oath.

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Form of verdict.

Springs, &c. exempted.

Land to revert on certain contingencies.

administered to the jury, they shall be sworn to inquire and assess what damages said proprietor will sustain by the condemnation of said land, for the purposes aforesaid; and by additional fencing, and the jury shall render their verdict in the following manner, or substantially so, to-wit: We, of the jury, find the said —, named in the written writ, will sustain damages to the amount of —, by taking the required land for the purposes within mentioned: provided, that no land including any spring, orchard, garden, pleasure grounds, or any part of either of them, or lying within two hundred yards of any dwelling house, or door yard thereof, shall be condemned for said purposes, without the previous written consent of the owner or owners of the entire estate in such dwelling house and door yard: and, provided further, that whenever the Commonwealth, or any company, shall cease to use such land for the purposes aforesaid, or shall use such land for any purpose, not herein authorised, the right of the Commonwealth, or such company in said land, shall cease and determine, and the title thereof shall revert to, and re-vest in, the said proprietor: and, provided further, that no person shall be licensed to sell, by retail, any spirituous or fermented liquors in said house, or on said land, as a tavern keeper, or otherwise; but that such license shall be null and void: provided, however, that no turnpike company shall have the benefit of this act, that shall not, before they apply for such writ, by their presiding officer, file an affidavit, that, in his opinion, the company hath fixed and set up their toll gates at five miles points, or so near those distances as the situation of the ground will admit; and that application has been made to the proprietor or proprietors of the land near to, and adjoining, any gate, to acquire a quarter of an acre of ground adjacent to the road and toll gate; and that the proprietor or proprietors refused to permit the company to have the use of a quarter of an acre of ground, at a fair price paid; and that he is unable to set up a gate and toll house at the proper point by the charter, or within one hundred yards thereof, with the assent of the owner or owners of the land over which the road shall pass: and, provided further, that such writ shall, in no instance, authorize such company to condemn any lot or site for a toll house, within a less distance than one mile of any city or town, into or through which such road shall pass: and, provided further, that the several turnpike companies shall have power to purchase, or lease, so much ground as may be necessary for the use of toll houses, and from which to get wood, stone, and dirt, or other materials, to repair, and keep in repair, their several turnpike roads: provided, however, said quarter of an acre shall be laid off in a square, as near as the situation of the ground will admit.

Approved February 23, 1839.

CHAP. 1408.—AN ACT to amend the charter of the Lexington and Covington Turnpike Road Company.

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SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the stockholders in the Lexington and Covington Turnpike Road Company, residing south of Williamstown, in Grant county, and any where between that place and Georgetown, may elect a separate Board of Directors, to consist of the same number, as authorized by the original charter; and the directors, chosen by them, shall have the control, and shall superintend the construction of that part of the road to be located and constructed between Georgetown and Williamstown.

Separate boards may be elected.

SEC. 2. That the stockholders in said road, residing north of Williamstown, shall have power, also, to elect a separate Board of Directors, for the purpose of controlling and superintending that portion of the road extending from Williamstown to Covington; and each board, so chosen, shall exercise separate control over its own portion of the road; but nothing herein shall be construed to divide and separate the stock in said road, but the same shall continue joint and common to all the stockholders, after the completion of said road.

Stock shall not be separated.

SEC. 3. That when any person may, hereafter, subscribe stock in said company, he, she, or they, shall have a right to direct upon which end of said road the amount of his subscription shall be expended; and the direction, thus given, shall authorize the board of that end of the road to receive, control and superintend such subscription upon that portion of road under its control.

Subscribers may direct where the money shall be appropriated.

SEC. 4. That so much of the original charter as requires said road to be located so as to pass by Peter Jones' and Thornberry's be, and the same is hereby, repealed; and said boards shall have power to locate and construct said road upon the most eligible and practicable route.

Location may be changed.

Approved February 23, 1839.

CHAP. 1409.—AN ACT for the benefit of the Mechanics of Brandenburg.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the carpenters, joiners, brick-masons, stonemasons, plasterers, turners, painters, brickmakers, lumber merchants, and all others performing labor or furnishing materials for the construction or repairing of any building, within the town of Brandenburg, (journeymen excepted,) shall have a lien, to the extent of their respective interests, upon the building they may construct or repair, or to

Lien given on lot & building for labor and materials.

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wards the construction or repairing of which they may have furnished materials; and, also, upon the lot or tract of land upon which said building is situate, which lien shall extend to the interest of the employer, or employers, in and to such building and lot, or land.

Against persons where the lien is held by executory contract.

SEC. 2. That if such employer, or employers, hold or claim by executory contract, and for any cause whatever such executory contract shall be set aside, or rescinded, the lien herein given, shall continue, so far as the person, or persons, to whom the estate may come, or with whom it may remain, by reason of such rescission, or setting aside, shall be made richer by such building, repairing, or materials furnished.

Against successful claimant in cases of eviction.

SEC. 3. That where the employer, or employers, shall, by judgment at law, or decree in equity, be evicted from the premises, and shall, by the rules of law, or equity, be entitled to compensation, from the successful claimant, for improvements made on the premises, the person, or persons, who, under the provisions of this act, have liens, as against such employer, or employers, shall, to the extent of their liens, respectively, be substituted for the person evicted, and recover compensation from the successful claimant so far as, by law, or equity, such claimant is bound to make compensation to the person evicted.

Against corporations.

SEC. 4. That the lien herein declared shall exist against private corporations, private *quasi* corporations, and societies, or trustees holding estate for charitable uses, whether the building, repairing, or furnishing of materials, shall be done, or furnished at the request of such corporation, *quasi* corporation, or trustees, or by their servants or agents, authorized by parole, or otherwise.

In what manner liens are to be enforced.

SEC. 5. That all and every person, or persons, claiming a lien, in virtue of this act, shall, within six months after the completion of the building, or repairing, or furnishing materials, or within six months after the cessation of work thereon, by order of him, her, or them, against whom the lien is sought to be enforced, file in the Clerk's office of the Meade County Court, his, her, or their, accounts, specifying the lien claimed by him, her, or them, which shall operate as notice to the world of such lien; and that no lien shall exist in favor of any person, or persons, in virtue of this act, who shall not have filed such account within the time aforesaid, or proceeded by suit to enforce said lien, in which latter case the *lis pendens* shall be construed to commence from the time of filing the bill.

Rules of equity for time being to govern proceedings &c

SEC. 6. That the rules of equity, for the time being, for the enforcement of liens, and the settlement of priorities, shall govern in cases arising under this act, both as to all persons claiming liens in virtue thereof, and other claimants.

Approved February 23, 1839.

CHAP. 1410.—AN ACT for the benefit of M. J. W. Ambrose and wife.

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WHEREAS, it is represented to this General Assembly, that M. J. W. Ambrose has intermarried with Sophia F. Patton, daughter of Thomas Patton, deceased, of Fleming county, and that, by the will of said Thomas Patton, deceased, the said Sophia is entitled to fifty five acres and two roods of land situate in the county of Fleming; and that a sale of said land will redound to the interest of said Sophia F., but which sale cannot be effected by reason of her non-age—for remedy whereof,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That said M. J. W. Ambrose, and Sophia F. Ambrose, are hereby vested with authority and power to sell and convey, by deed, said land, in the same manner they could if the said Sophia had attained the age of twenty one years: provided, that said deed be acknowledged, by said Sophia, on privy examination, as prescribed by law in regard to deeds and conveyances by *femes covert*.

Approved February 23, 1839.

CHAP. 1411.—AN ACT making an appropriation to the Anderson County Seminary.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That there shall be, and is hereby, appropriated to the Anderson County Seminary six hundred dollars; and it shall be the duty of the Auditor of Public Accounts to issue his warrant upon the Treasury of the State, in favor of the Trustees of the Anderson County Seminary, upon the application of said Trustees, or any person by them authorized to receive the money, and the Treasurer of the State shall pay said warrant when presented to him for payment.

SEC. 2. That said Trustees shall apply said money, when received by them, as directed by an act incorporating the Anderson County Seminary, approved January twenty eight, eighteen hundred and thirty seven.

Approved February 23, 1839.

CHAP. 1412.—AN ACT for the divorce of Nancy Lyon.

WHEREAS, it is represented to the General Assembly, that about the year eighteen hundred and twenty seven, a certain

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Nancy Hurley was, in the City of Washington, married to a certain John Lyon; that the said Lyon became an abandoned sot and vagabond, abusing and greatly maltreating his said wife, using no exertion to provide her the means of subsistence; that the said Nancy came with her father to Kentucky, and in a short time after her arrival a report reached her of the death of her said husband; that in two or three years thereafter, she intermarried with a certain Peter Kleissendorf, with whom she has cohabited for seven or eight years, and by whom she has had three children; that the said Peter, during the year eighteen hundred and thirty eight, departed this life, and the said Nancy has been appointed administratrix of his estate; and that within a few weeks past the said John Lyon has made his appearance in the city of Louisville, the same abandoned sot and vagabond, that he was ten years since—now, therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the said Nancy Lyon be, and she is hereby, divorced from her husband, John Lyon; and that the marriage of the said Nancy, with Peter Kleissendorff, be, and the same is hereby, legalized and rendered valid, as if the said Nancy had been a *feme sole* at the period of the solemnization of said marriage.

Approved February 23, 1839.

CHAP. 1413.—AN ACT to change the terms of the Courts in the second Judicial District, and the terms of the Allen County Court.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That the Harrison Circuit Court shall, hereafter, commence on the first Mondays in March, June, and September, and continue twelve juridical days.

Pendleton. SEC. 2. That the Pendleton Circuit Court shall commence on the third Mondays in March, June, and September, and continue six juridical days.

Campbell. SEC. 3. That the Campbell Circuit Court shall commence on the fourth Mondays in March, June, and September, and continue twelve juridical days, except when five Mondays occur in any of the aforesaid months, then eighteen juridical days.

Boone. SEC. 4. That the Boone Circuit Court shall commence on the second Mondays in April, July, and October, and continue twelve juridical days.

Gallatin. SEC. 5. That the Gallatin Circuit Court shall commence on the fourth Mondays in April, July, and October, and continue six juridical days.

Grant. SEC. 6. That the Grant Circuit Court shall commence on the fifth Mondays in April, July, and October, whenever that

number occurs in either of those months, and on the first Mondays in May, August, and November, when there shall not be five Mondays in the said first named months, and continue six juridical days at each term. This act shall take effect from and after the termination of the spring term of the Campbell Circuit Court.

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SEC. 7. That the Allen County Court shall, hereafter, be held on the third Monday in each month in which there is no Circuit Court, in lieu of the days now fixed by law.

Allen county court.

Approved February 23, 1839.

CHAP. 1414.—AN ACT to incorporate the Covington Social Library.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the present shareholders in the Covington Social Library, (a literary institution established in the city of Covington,) and those who may hereafter become shareholders, and their successors, be, and they are hereby, declared a body politic and corporate, with perpetual succession, by the name of the Covington Social Library; and by said name shall be known and designated, may sue and be sued, contract and be contracted with, purchase, hold, and sell, and convey all such real and personal estate as may be deemed requisite and necessary to promote the interest of said association. The capital stock of said institution shall be twenty five thousand dollars, divided into shares of five dollars each.

Name and style, &c.

May hold real estate.

SEC. 2. The affairs of said institution shall be conducted by a President and four Directors, who must be stockholders, and shall be elected, annually, by the shareholders on the first Wednesday in May, each shareholder having a vote for every share held and owned by him, her, or them. At any general meeting, the shareholders may make such by-laws, rules and regulations for the government and management of the company and Board of Directors as they may deem expedient and proper, but not contrary to the Constitution and laws of this Commonwealth. They may impose penalties for the infraction of any rule or by-law, and may recover the same before any court of competent jurisdiction in the name of said institution.

President and directors to be chosen, &c.

By-laws may be passed.

SEC. 3. The Board of Directors may fill any vacancies which may occur in their own body; shall elect a President out of their own body, and shall also appoint a Secretary, Librarian and Treasurer, whose duties shall be prescribed in the by-laws. They may require bond and security from any officer of the association with a reasonable penalty, which bond may be sued on before any court of competent jurisdiction for a violation of any of the conditions contained in it.

How vacancies may be filled.

Officers to be appointed and bond given.

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Subscriptions
of stock—how
taken, &c.

SEC. 4. Books for the subscription of capital stock in said company may be opened, and the payment thereof required and enforced, from time to time, by the President and Directors of the association; and should any shareholder fail or refuse to pay any instalment on his, her, or their stock, when required by the order of the President and Directors, or fail or refuse to pay any tax or fine imposed by the by-laws for injury to books, maps, or charts, or other property of the association, the President and Directors may forfeit the share or shares of any such delinquent for the benefit of the institution.

Penalty for
failure to return
books, &c.

SEC. 5. Should any shareholder, or other person, who may have drawn out a book, map, or chart of said institution, fail or refuse to return it to the Library within the time mentioned, written, or printed, on some part of the cover of said book, map, or chart, for keeping it out of the Library, the said President and Directors may sue and recover of such delinquent, four times the value of such book, map, or chart, for the use of the institution.

Approved February 23, 1839.

CHAP. 1415.—AN ACT for the benefit of John Jarman.

His claims a-
gainst Wilder-
ness turnpike to
be settled, how
and by whom.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the Madison County Court, upon the application of John Jarman, to appoint three Commissioners to examine and settle with him any balance of claim that may be due him as the superintendent of the Wilderness turnpike road, or as superintendent of the Madison fork of said road; and for the purpose of enabling said Commissioners to make a correct and just settlement, they shall have power to cause the gate keepers to come before them; and a full investigation shall be had as to the claims of said Jarman, and, also, as to the payments that have been made to him.

How and by
whom amount
due him to be
paid.

SEC. 2. That when said settlement shall be made, if there appear any thing due said Jarman, it shall be the duty of said Commissioners to report the settlement to the County Court of Madison, and thereupon said court shall certify the same to the gate keepers on said road, who shall pay the same as may be directed by said court. The court shall specify the amount to be paid at each gate; and for the payments thus made the gate keepers shall have a credit; and if it appear to said Commissioners that there is a balance due to said Jarman, and that he made application for the same, and payment was refused, they shall allow him interest upon such balance.

Approved February 23, 1839.

CHAP. 1416.—AN ACT to require the Register to register certain surveys, and requiring the appointment of a Treasurer of the School Fund in Wayne county.

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Sec. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the Register of the Land office shall receive and register all plats and certificates of surveys, legally made, on all lands disposed of by the Commissioners of Common Schools, for the benefit of Common Schools, without fee or charge, in Wayne county.

Sec. 2. That the Commissioners of Common Schools, in Wayne county, shall receive all moneys going to the Common School Fund in said county, the proceeds of the sales of lands appropriated to Common School purposes, and disburse said money according to the provisions of the act of last session, establishing Common Schools in Kentucky, and shall be subject, in all respects, to the liabilities imposed by said act.

Approved February 23, 1839.

CHAP. 1417.—AN ACT to authorize the establishment of roads to Coal and Iron Banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the several County Courts of this Commonwealth shall have the same power to establish roads to Coal banks, and banks of Iron ore, within their respective counties, under the same rules and regulations that now govern them in establishing other public roads, as now prescribed by law.

Approved February 23, 1839.

CHAP. 1418.—AN ACT for the divorce of Polly Hurt.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the marriage contract heretofore existing between Polly Hurt and her husband, William Hurt, be, and the same is, forever dissolved, so far as relates to the said Polly, and she is hereby restored to all the rights and privileges of an unmarried woman, and to her maiden name of Polly Carnes.

Approved February 23, 1839.

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CHAP. 1419.—AN ACT for the benefit of William Smith.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Auditor of Public Accounts be, and he is hereby, directed to issue his warrant on the public treasury, in favor of William Smith, for twelve dollars, in consideration of his aid in the apprehension of the Wilsons', in the State of Tennessee, on a charge of felony, which warrant the Treasurer shall pay out of any money in the treasury not otherwise appropriated.

Approved February 23, 1839.

CHAP. 1420.—AN ACT to amend the charter of the City of Covington.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That so much of the act, entitled, an act to amend the charter of the city of Covington, approved February twenty nine eighteen hundred and thirty six, as requires the authorities of said city to pay, annually, into the Treasury of this Commonwealth, on the first day of January, the sum of one hundred dollars, be, and the same is hereby, repealed.

Approved February 23, 1839.

CHAP. 1421.—AN ACT to open a State road from Colemansville, in Harrison county, to Covington, in Campbell county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That S. C. Perrin and Abijah Dejarret, of Harrison county; S. B. Hunn and Richard Mullens, of Pendleton county; and Neal McDaniel and William D. Scott, of the county of Campbell, or any three of whom, being first sworn, shall proceed from Colemansville, in the said county of Harrison, and view a way from thence to Covington, in Campbell county, by the way of Stower's and Collins' Store, and the Three Forks of Grassy creek, in Pendleton county, taking the nearest and best route, from point to point; and, when they are satisfied as to the best route for a State road, from and to the points before mentioned, that they cause the route selected by them to be marked and identified, so that there will be no difficulty in finding and pursuing the same; and it shall be the duty of said commissioners to make a report, in

Commission-
ers appointed,
and their duty.

writing, to the County Courts of the counties aforesaid, designating therein the route and ground over which said proposed road shall pass.

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SEC. 2. That, upon the before mentioned report being made to said County Courts, the route therein designated shall be, and the same is hereby, established a State road; and it shall be the duty of the aforesaid County Courts to lay off said road into convenient precincts, and appoint surveyors, and allot a sufficient number of hands to each; to clear out and improve said road, within each of their respective counties, directing that said surveyors shall cause said road to be cleared at least forty feet wide, and the stumps in the same cut low, and rounded at the tops; the banks of the creeks and branches graded, and to throw bridges across the same, where they may be deemed necessary, so as to admit of safe and convenient passage.

To be laid off
into precincts,
and hands al-
lotted.

Width.

SEC. 3. That said commissioners shall be paid the sum of one dollar and fifty cents, each, for every day that they may be necessarily employed in the discharge of the duties herein assigned them, to be jointly paid by the aforesaid counties.

Pay to com-
missioners.

SEC. 4. That it shall not be lawful for the County Courts, of the counties through which said road shall pass, to alter or change the same, after it shall have been cleared out; but it shall be their duty, at all times thereafter, to appoint a sufficient number of hands to keep said road in repair; and the surveyors and hands thereof shall be governed by the laws, rules, and regulations, as now, or may hereafter be, in force in this Commonwealth, in relation to working and improving public roads.

Road not to
be changed.

Hands to be
allotted to keep
in repair.

SEC. 5. That any person, over whose land said road may pass, shall have the right to obtain, from the County Court of the county in which said land, or a greater part, may lie, a writ of *ad quod damnum*, under the provisions of the general law of this State; and the damages, assessed under such writ, shall be levied by the County Court, as is directed by said road law.

Writ of *ad
quod damnum*
may issue.

Approved February 23, 1839.

CHAP. 1432.—AN ACT to amend the several acts establishing a road from Taylorsville to Jeffersontown.

WHEREAS, the commissioners appointed by the several acts to view a road from Taylorsville, in Spencer county, to Jeffersontown, in Jefferson county, have failed to perform the duty required of them by the said several acts—therefore,

SEC. 1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That James W. Beckham, Alexander

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Commission-
ers to view r'd.

W. Thomas, and James Stout, Sr., of Spencer county, and Simeon N. Calfus and Robert Carrithers, of Jefferson county, be, and they are hereby, appointed commissioners; who, or a majority of whom, shall view and mark a road from Taylorsville, in Spencer county, to Jeffersontown, in Jefferson county, and the nearest, best, and most practicable route, at least forty feet wide.

Report to be
made to county
courts, & their
duty.

SEC. 2. That the said commissioners, or a majority of them, shall, on oath, make report to the County Courts of each said counties; and, thereupon, it shall be the duty of said Courts to order summons to be issued against the proprietors or tenants of the land, within their respective counties, through which the said road shall pass, to appear and show cause why said road should not be opened; and, upon the return thereof, if any proprietor or tenant so desire, the Court shall order a writ of *ad quod damnum* to issue, directed to the Sheriff of the county, who shall proceed thereon in the manner prescribed by the act, passed February twenty five, seventeen hundred and ninety seven, concerning public roads; and, upon the return of the inquests, said courts shall, respectively, order said road to be opened, forty feet wide, in the manner prescribed by the above recited act, and shall levy, on their counties respectively, at the next levy to be laid, the damages assessed, and the costs of the inquisition, and direct payment thereof to those entitled thereto.

Width of road.

Surveyors to
be appointed,
and hands al-
lotted.

SEC. 3. That it shall be the duty of the County Courts of said counties to make an order for clearing out said road, forty feet wide, clear of timber, in all practicable places, and putting the same in repair, as is provided by the general law in relation to roads; and said courts shall appoint a surveyor in their respective counties, and allot a sufficient number of hands to clear out and open said road, and keep the same in repair, from time to time, according to this act and the general law concerning public roads; and to allot to said surveyor, or surveyors, such boundary, or boundaries, of hands, in their respective counties, as may be sufficient for the aforesaid purposes; copies of which orders shall be delivered to each surveyor appointed, within fifteen days after making the same, by the Sheriffs of said counties.

Penalty for
failure of hands
to work on the
road.

SEC. 4. That each and every person, or persons, who shall fail or refuse (without lawful excuse) to do his duty in clearing out and opening said road, after being duly notified, shall be subject to a fine of one dollar and twenty five cents for each day he may fail or refuse, recoverable as other road fines are; and the surveyor, or surveyors, are authorized to notify such person, or persons, to attend and labor on said road, from day to day, as may be required.

SEC. 5. That so much of the road as runs through the county of Jefferson be, and the same is hereby, established, where said road was first viewed and marked by the commis-

Commissioners heretofore appointed, with the exception that the same shall be made the width required by this act.

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SEC. 6. That, after said road shall have been established, it shall not be changed or altered by the order of either of the County Courts of said counties, without the consent of the other; and when any person shall desire to change said road, he shall apply to the County Courts of Spencer and Jefferson, who shall be authorized to appoint, each one, a commissioner, whose duty it shall be to go upon and view the said road and way, proposed to be changed, and report the facts, and their opinion, in writing, upon oath, to the respective County Courts; who, after hearing the same, according to the provisions of the existing law, may, if, in their opinion, it shall be deemed proper, order the proposed change; but no alteration shall be made in said road, unless the County Court of each county shall concur therein.

If, and upon what conditions road may be changed.

SEC. 7. That, where said commissioners, upon their re-view, may diverge from the old road, as it now runs through the county of Spencer, and the new road, as viewed, shall be established by the County Court of said county, the old road shall be discontinued.

Old road to be discontinued.

SEC. 8. That each commissioner shall receive one dollar and fifty cents; out of the next county levy, of the counties in which he may reside, for each day he may be necessarily employed in viewing said road, by returning a certified account of the time of service to the Court of Claims.

Pay to commissioners.

Approved February 23, 1839.

CHAP. 1423.—AN ACT for the benefit of Robert Arberry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky, That the Board of Internal Improvement be, and they are hereby, directed to pay to Robert Arberry, the sum of one hundred dollars, as an additional compensation for labor on the Kentucky river.

Approved February 23, 1839.

CHAP. 1424.—AN ACT to amend the act to establish a System of Common Schools in the State of Kentucky, approved February 16, 1838.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That instead of five School Commissioners in each county, there shall, hereafter, be appointed only three Commissioners, any two of whom shall be compe-

Number of Commissioners reduced.

1839

Proviso.

tent to perform all the functions which have heretofore been, or may hereafter be, devolved upon them: *Provided, That* where five Commissioners have been heretofore appointed in any county, they shall continue to act until their number shall be reduced to three, by resignation or otherwise, a majority of whom shall constitute a quorum to do business.

Compensation
to Commission-
ers and Survey-
or.

SEC. 2. That the several County Courts of this Commonwealth shall allow to each School Commissioner, of their respective counties, the sum of one dollar per day; and to each County Surveyor, two dollars per day, for every day that they shall have been diligently employed in the duties of their offices pertaining to Common Schools; and the same shall be paid out of the County levy.

Exemption
from tax.

SEC. 3. The lands and other property of free negroes shall hereafter be exempted from taxation, for Common School purposes.

Property that
may be taxed.

SEC. 4. That the 34th section of the act to establish a System of Common Schools in the State of Kentucky, approved February 16, 1838, be, and the same is hereby amended as follows: That the property to be taxed for school purposes, shall be the same that is assessed and taxed for revenue purposes; and the property located in each district, shall be subject to taxation, for the benefit of said district, whether the owner of such property reside in said district or not; and if the owner be a non-resident of the State, then his or her property shall be, also, liable to taxation, in the district where situated, for the use and benefit of such district.

Repealing
clause.

SEC. 5. That so much of the act of last session, establishing a System of Common Schools, approved February 16, 1838, as conflicts with the foregoing provisions, be, and the same is hereby repealed.

Distribution
to districts.

SEC. 6. That the distribution to each district, shall only be made upon the district conforming to the act above mentioned.

Districts may
be composed of
parts of two
counties.

SEC. 7. That where the convenience of the neighbourhood, through which a county line may run, shall require it, it shall and may be lawful for the School Commissioners of each of the counties to meet, and lay off a district, including parts of both counties, and report the same to their respective County Courts, which shall be recorded in the Clerk's office of each county, which district shall be governed by all the laws that apply to school districts, situated in one county.

Approved February 23, 1839.

CHAP. 1495.—AN ACT to establish a State road from the town of Hickman, in Hickman county, to Feliciana, in Graves county.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky, That John Miliner, William Collins,*

Samuel Beard and Thomas Cox, or any three of them, being first sworn, shall proceed to the town of Hickman, in Hickman county, and view a way from thence to Feliciana, in Graves county; and when they are satisfied as to the best route for a road from and to the points before mentioned, that they cause the route selected by them to be so marked and identified, that there will be no difficulty in finding and pursuing the same, and it shall be the duty of said commissioners to make a report in writing, to the County Courts of Hickman and Graves, designating therein, fully and explicitly, the route and ground over which said proposed road shall pass.

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Com'rs to review way for road and make report.

SEC. 2. That upon the before mentioned report being made to the said County Courts, the route designated shall be, and the same is hereby established, a State road; and it shall be the duty of the aforesaid County Courts, to lay off said road into convenient precincts, and appoint surveys, and allot a sufficient number of hands to each to clear out and improve said road within each of their respective counties; and that said surveyors shall cause said road to be cleared out, at least thirty feet wide, and the stumps in the same cut low and rounded at the tops, and in all respects made so as to admit of safe and convenient passage.

Road to be laid off into precincts, and surveyors appointed, &c.

SEC. 3. That said commissioners shall be paid the sum of one dollar and fifty cents for every day they may be necessarily employed in the discharge of the duties herein assigned them, to be paid by the counties of Hickman and Graves, out of the county levy of said counties.

Pay to com'rs.

SEC. 4. That it shall not be lawful for the County Courts of the counties through which the before mentioned road shall pass, to alter or change the same so as to defeat the object of said road, after the same shall have been cleared out; but it shall be their duty, at all times thereafter, to appoint a sufficient number of hands to keep said road in repair; and the surveyors and hands thereof shall be governed by the same laws and regulations as are now or may be in force in this Commonwealth in relation to working on and improving public roads.

Road when established not to be changed, but kept in repair.

SEC. 5. That any person or persons, over whose land said road may pass, shall have the right to obtain from the County Court, of the county in which said land lies, a writ of *ad quod damnum*, under the provisions of the General law of this State; and the damages assessed, under such writ, shall be levied by said County Court, as is directed by the provisions of said road law.

Writs of *ad quod damnum* may issue.

Approved February 23, 1839.

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CHAP. 1436.—AN ACT to establish a road from Harrodsburg, in Mercer county, to Delaney's old road, in Anderson county.

WHEREAS, the commissioners appointed by an act, entitled, an act to establish a road from Harrodsburg to Taylorsville, approved February the fifth, eighteen hundred and thirty four, have failed to view and mark a way for said road pursuant to said act—therefore,

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That G. Sims and E. D. Veatch, of Mercer county, George W. Cornish and G. C. Alford, of Washington county, James M. Wash and Separate Case, of Anderson county, be, and they are hereby, appointed commissioners, who, or any three of them, shall view and mark the nearest, best and most practicable way for a road from Harrodsburg, in Mercer county, to run with the general direction of the present old road, called the Bloomfield road, to intersect the Delaney's old road, leading from Bardstown to Lexington, at or near the place where the present Bloomfield road now intersects the said Delaney's old road; and said commissioners shall, upon oath, make a return of said review to the County Courts of said counties, and thereupon it shall be the duty of said courts to order summons to issue against the proprietors and tenants of the land within their respective counties, through which said road shall be viewed, to appear and show cause why said road should not be opened; and upon the return thereof, if any proprietor or tenant so desire, the court shall order a writ of *ad quod damnum* to issue, directed to the Sheriff of the county, who shall proceed thereon in the same manner as is prescribed by the act passed February twenty fifth, seventeen hundred and ninety seven concerning public roads. Upon the return of the inquest to the County Courts of said counties, it shall be the duties of said courts to order that said road shall be opened forty feet wide, in the manner prescribed by the above recited act, and shall levy on their counties, respectively, at the next levy to be laid, the damages assessed and the costs of the inquest, and direct the same to be paid to those entitled thereto.

SEC. 2. That each commissioner shall be allowed two dollars per day, for every day they may be employed in viewing said road, to be paid out of the county levy of their respective counties, upon the presentation of a certified account of the same to the Court of Claims; and after said road shall be opened, it shall not be changed or altered by order of either of the County Courts of the counties through which the same may run without the consent of the others.

SEC. 3. That the said act, entitled, an act to establish a road from Harrodsburg to Taylorsville, approved February fifteenth, eighteen hundred and thirty four, be, and the same is hereby, repealed; and that the act, entitled, an act to authorize the

establishment of a road from Harrodsburg to Lexington road from Bardstown, and for other purposes, approved January the twenty second, eighteen hundred and thirty three, be, and the same is hereby, revived.

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Approved February 23, 1839.

CHAP. 1437.—AN ACT to amend an act, entitled, an act to incorporate the Adairsville, Russellville and Muddy river Transporting Company.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That the charter of the Adairsville, Russellville, and Muddy river Transporting Company, be, and the same is hereby, so amended as to require and authorize said company, (if they shall determine to make a graded or McAdamized road in the manner prescribed in the original charter,) that they shall cause to be put under contract the first twenty miles of said road next to Muddy river, before any other portion of said road is placed under contract.

Part of road to be first made:

SEC. 2. That so soon as the sum of twenty thousand dollars, in shares of one hundred dollars each, shall have been subscribed, in the capital stock, by individuals and companies, the Commissioners, or any three of them, shall give ten days' notice in some newspaper printed in Russellville, or Bowling-green, or Adairsville, of the fact, and appoint a time and place for the meeting of the stockholders in Russellville, who shall elect a President and five Directors, or Managers, to conduct the business of said corporation, by the name and style of the Adairsville, Russellville and Muddy river Transporting Company. The President, Directors, or Managers, and all officers of said company shall, severally, take an oath, before some Justice of the Peace, faithfully to discharge the duties of their respective offices. They shall, as soon as may be, proceed to locate said road, by commencing at the mouth of Wolf Lick Fork of Muddy river, and thence on the most judicious and practicable route, by the town of Russellville, in Logan county, to some suitable point on the Tennessee line, in the direction of Nashville, near Adairsville, so as to connect with the McAdamized road from Nashville to the Kentucky State line, in the direction of Russellville; and said Directors, or Managers, may be, and are hereby, authorized to receive the written consent of all, or any land holders, through which, or near which, said road may pass, and the grant of the right of way, timber, stone, and soil, to make said road, and keep the same in repair, which consent, when so given, shall be valid to every intent and purpose.

Where and where President & directors are to be elected.

Officers to take an oath.

Where location to commence & route of road.

Written consent of landholders may be received by Directors.

SEC. 3. The said road (if a graded, or McAdamized road,) shall be opened not less than fifty feet wide, and the same shall be graded to an elevation not exceeding two degrees, at

Width and grade.

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least twenty feet wide at the bottom, where the nature of the ground will admit said width and grade.

Gates may be erected, rate of toll, &c.

Sec. 4. That when said road shall be so opened, and graded for any distance thereof, equal to five miles, it shall be lawful for said company to erect a gate, or gates, upon the same, and collect for the travel on said road, one half of the rates of toll authorized to be collected by the original charter of said Adairsville, Russellville and Muddy river Transporting Company, and at the same rates for any greater distance of said road, so soon as the same shall be opened and graded as aforesaid.

When sufficient amount is subscribed to make 20 miles, B. I. I. to subscribe.

Sec. 5. That whenever the said capital stock of said company, or a sufficient amount thereof, shall have been subscribed by individuals, corporations, or companies, which, together with a like amount, subscribed on the part of the State, will be sufficient to complete twenty miles of continuous line of graded or McAdamized road, then the Board of Internal Improvement shall be, and they are hereby, authorized and required to subscribe stock on the part of the State in said road, under the restrictions and rules of the general law upon this subject: provided, that so much of the original charter of the Adairsville, Russellville and Muddy river Transporting Company, as shall not be contradictory to this act, shall be, and the same is hereby, continued in full force and effect.

Repealing clause.

Approved February 3, 1839 .

CHAP. 1428.—AN ACT to establish a State road from the town of Paducah to the State line, in a direction to Paris.

Commissioners to view road and their duty prescribed.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That John L. Caldwell and James B. Husbands, of McCracken county; Ezekiel Edons and John Bush, of Graves county; George H. Lynch and John H. Crawford, of Calloway county, or any three of whom, being first sworn, shall proceed to the town of Paducah, in the said county of McCracken, and view a way from thence, to the State line, between Kentucky and Tennessee, in the direction of Paris, in the State of Tennessee; and when they are satisfied as to the best route, for a State road, from and to the points before mentioned, that they cause the route, selected by them, to be marked and identified, that there will be no difficulty in finding and pursuing the same; and it shall be the duty of said Commissioners to make a report to the County Courts of McCracken, Graves and Calloway, designating therein, fully and explicitly, the route and ground over which said supposed road will pass.

SEC. 2. That, upon the before mentioned report being made

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to the said County Courts, the route therein designated shall be, and the is hereby, established a State road; and it shall be the duty of said County Courts to lay off said road into convenient precincts, and appoint surveyors, and allot a sufficient number of hands to each, to clear out and improve the same, within each of their respective counties, directing that said surveyors shall cause said road to be cleared twenty five feet wide, the stumps, in the same, cut low and rounded at the top, so as to admit of safe and convenient passage.

SEC. 3. That said Commissioners shall be paid, the sum of one dollar and fifty cents per day, for every day that they may be necessarily employed in the discharge of the duties herein assigned them, to be paid jointly by the counties of McCracken, Graves, and Calloway, out of the county levy of said counties.

Pay to commissioners.

SEC. 4. That it shall not be lawful for the County Courts of the counties, through which the said road shall pass, to alter or change the same, after it shall have been cleared out; but it shall be their duty, at all times thereafter, to appoint a sufficient number of hands to keep said road in repair, and the surveyors, and hands thereof, shall be governed by the same laws, and regulations, as now are, or may be, in force in this State, in relation to improving and working roads.

Road not to be changed when established.

To be kept in repair.

SEC. 5. That any person, over whose land said road may pass, shall have the right to obtain from the County Courts, of the county in which such land lies, a writ of *ad quod damnum*, under the general law of this State, and the damages assessed, under such writ, shall be levied by the County Court as directed by the provisions of said road law.

Writs of ad quod damnum may issue.

Approved February 23, 1839.

CHAP. 1429.—AN ACT to incorporate the Munfordsville Polemic and Literary Society.

SEC. 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky*, That J. H. Rodman, President; C. A. Ossman, Vice President; A. L. Woodson, Secretary; J. N. Locke, Treasurer; and C. M. Harris, Curator; W. P. Savage, H. C. Wood, H. M. Rowlett, T. J. Wood, Directors, with their associates, shall be, and are hereby, constituted a body corporate and politic, to be known by the name of the President and Directors of the Munfordsville Polemic and Literary Society, and by that name shall have perpetual succession; and shall have power to make a common seal, and to alter or change the same at pleasure; may contract and be contracted with, sue and be sued, plead and be impleaded, before any court of judicature in this Commonwealth, having jurisdiction of like sums, and shall have power to take and hold, for literary purposes, by gift, grant or devise, any estate, whether real, or

Body corporate.

Corporate powers.

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personal, or mixed, not exceeding, in value, the sum of ten thousand dollars; and said President and Directors, or a majority of them concurring, shall have power to sell and convey said estate, or any part thereof, for the use and benefit of said society, and execute appropriate deeds thereof.

Officers.

May make
rules and regu-
lations.

Term of of-
fice.

SEC. 2. That the members of the Munfordsville Polemic and Literary Society may elect, on the first Monday in January, eighteen hundred and forty, and on the same day in every year thereafter, a President, Vice President, Secretary, Treasurer and Curator of said society, who, upon their election, shall enter upon the discharge of such duties as shall be prescribed by the members of said society; that the members of said society shall also have power and authority to ordain and establish such by-laws, rules and regulations, for their government, as they may deem proper and necessary, which are not inconsistent with the Constitution and laws of this Commonwealth; they may also appoint such other subordinate officers as they may deem proper, for the government of said society; and they may remove them at pleasure; but the President, Vice President, Secretary, Treasurer, and Curator, shall hold their offices for one year, and until their successors are chosen; and in case no election shall be held on the first Monday in January, eighteen hundred and forty, then the officers of said society, now in office, shall continue in office until the first Monday in January, eighteen hundred and forty one, unless a vacancy should occur, and in that event, an election may be had at any time. That all the books, furniture and apparatus, now belonging to said society, shall be vested in, and held by, said society, as fully and completely as if the same had been acquired after the passage of this act.

Approved February 23, 1839.

RESOLUTIONS.

RESOLUTIONS in relation to a Public Armory.

Resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That our Senators in Congress be instructed, and our Representatives be requested, to use their exertions to procure an Armory, to be erected by the General Government, at some suitable point in Kentucky.

Resolved further, That the Governor of this State be requested to furnish copies of this resolution to each of our Senators and Representatives in Congress,

Approved December 18, 1836.

RESOLUTIONS respecting the enticing away the slaves of the citizens of Kentucky, by the citizens of other States.

WHEREAS, the preservation of the national union is of great and vital importance to the well being, prosperity and happiness of the people of the United States, and nothing can tend more to preserve and perpetuate that union than perfect comity and good feeling between neighboring States, and their respective citizens: and, whereas, experience has shown that without the concurring legislation of our sister States, bordering on the north side of the Ohio river, our laws inflicting punishment for enticing slaves to leave their lawful owners or possessors, and to escape to parts without the limits of this State, and inflicting punishment for aiding, assisting, or concealing such slaves, after they shall have escaped, cannot be effectually enforced, because evil disposed persons, availing themselves of their residence within the jurisdiction of another State, can, with almost perfect impunity, entice away the slaves of our citizens, or aid, assist, and conceal, them after they have reached the borders of another State, without rendering themselves amenable to our laws: and, whereas, this Legislature have full confidence in the justice, good feeling, and comity, of the Legislatures of our sister States, bordering on the Ohio river, and are fully persuaded that they will be disposed to provide all needful enactments to prevent evil disposed persons, who may shelter themselves within their jurisdiction, from violating the penal enactments of this State, or in any manner aiding, or assisting,

the slaves of our citizens in making their escape after they shall have reached the borders of said State—therefore,

Be it resolved by the Senate and House of Representatives of the Commonwealth of Kentucky, That two Commissioners be appointed by a joint vote of the Senate and House of Representatives, to proceed forthwith to the seat of government of the State of Ohio, to make such representations to the Governor and Legislature of that State, in relation to the subject of these resolutions, as may be authorized by the tenor thereof, and by the instructions to be given by the Governor of this Commonwealth; and that they especially be directed respectfully to solicit the passage of an act to prevent evil disposed persons, residing within the jurisdictional limits of Ohio, from enticing away the slaves of citizens of Kentucky, or aiding and assisting, or concealing, them after they shall have reached the limits of that State; and, also, to solicit the passage of an act providing more efficient and certain means for recapturing and bringing away absconding slaves by their masters or legally authorized agents.

Be it further resolved, That the Governor be requested to furnish said Commissioners with a copy of these resolutions, and of our statute, entitled, "an act to amend the law concerning slaves, and for other purposes," approved January twenty eight, eighteen hundred and thirty, and with such general instructions as he may deem expedient; and, also, with a general letter of authority addressed to the Governor of the State of Ohio.

Approved January 4, 1839.

A RESOLUTION giving the members of the Board of Internal Improvement the use of the books in the Public Library.

Resolved by the General Assembly of the Commonwealth of Kentucky, That the members of the Board of Internal Improvement be allowed the use of the Public Library, upon like terms and conditions prescribed for members of the Legislature.

Approved January 27, 1839.

RESOLUTIONS in relation to the communications from the State of Indiana upon the subject of slavery.

WHEREAS, the Legislature of the State of Indiana, regardful of the rights of her sister States of the South, have, by a vote of eighty seven to one, in the House of Representatives, and of forty to one in the Senate, "Resolved, that any interference in the domestic institutions of the slaveholding States of the Union, (without their consent,) either by Congress or the State Le-

gislatures, is contrary to the compact by which those States became members of the Union, and that any such interference is highly reprehensible, unpatriotic, and injurious, to the peace and stability of the Union of the States."—Therefore,

Be it resolved by the General Assembly of the Commonwealth of Kentucky, That the sentiments expressed in the said resolutions of Indiana, are such to call forth the most decided and unqualified approbation of this Legislature, and are such as might have been expected from our enlightened, liberal, and patriotic, sister State.

That this Legislature reciprocate the sentiment expressed by said Legislature on the subject of slavery, and will, at all times, maintain the principles of the constitution referred to in said resolutions.

That the promptitude with which the Executive of the State of Indiana has acted, in forwarding said resolutions to the Executive of this State, merits the commendation of this Legislature.

That a copy of these resolutions be forwarded, by the Governor of this State, to the Governor of the State of Indiana, with a request that they be laid before the Legislature of said State.

Approved February 23, 1839.

RESOLUTIONS for a survey of the route of a Railroad from Lexington to the mouth Big Sandy.

WHEREAS, artificial outlets from the western waters to the Atlantic ocean would promote the commercial interests of the Western States, in times of peace, by giving them a choice of markets, and might become essentially necessary to their prosperity, in times of war, when their natural outlets, by the Mississippi and Gulf of Mexico, might be blockaded by hostile fleets: and, whereas, the port of Norfolk, Virginia, with its spacious bay, is always open to commerce, for vessels of every burden, and is one of the safest and best harbors on the seacoast of the Union, always free from ice, and easily entered against adverse winds: and, whereas, a continuous line of railroad from Norfolk to the Ohio river would be free from obstructions, in winter, and open for trade and intercourse at all seasons of the year, and would be as short and cheap, if not the shortest and cheapest, route from the seaboard to the west, and, therefore, equal, if not superior, to any line of inter-communication heretofore projected, and certainly far superior to any of the lines north of that route: and, whereas, the position of Norfolk, with its safe harbor, and broad bay, of easy access, now well fortified, gives it many advantages over other seacoast cities, as a commercial emporium; and the position of Richmond, in the direct route to the Great Valley, with its water power far exceeding that of any other city in the known world, gives it many advantages as a place of depot and distribution, as well as a site for manufacturing purposes: and, whereas, the State of Illinois is now constructing a railroad from Mount Carmel, on the Wabash, to Alton, on the Mississippi, with a branch to St. Louis, in Missouri; and the State of Indiana is preparing to construct a similar road from Mount Carmel to New Albany, opposite to Louisville, in Kentucky: and, whereas, a railroad is

now being constructed from Louisville to Lexington, making a distance of three hundred and forty six miles from Lexington, westward, to St. Louis, and leaving a space of about five hundred and fifty miles from Lexington, Kentucky, to Richmond, Virginia: and, whereas, the interests of agriculture, manufactures, and commerce, within the said States, and elsewhere, would be greatly promoted, and the prosperity of the people of each State greatly increased by opening the proposed line of trade and intercourse between the seaboard and the Great West—therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That a railroad from Richmond, Virginia, or from Norfolk, by way of Richmond, to a point at, or near, the mouth of Big Sandy; and thence, by way of Lexington, to Louisville, in Kentucky, would be a work of unequalled utility, worthy of the age in which we live, and of the States and people who shall begin the enterprise.

Resolved, That the Board of Internal Improvement be directed to cause the route for a railroad to be surveyed and examined, from Lexington, Kentucky, to such point at, or near, the mouth of Big Sandy, as would be most convenient to connect the road with a railroad from Richmond, Virginia, to that place; and to prepare a plat of the survey, with plans and estimates, for the use of the Legislature.

Resolved, That the Governor of Kentucky be requested to transmit a copy of the foregoing resolutions to the Governor of the State of Virginia, to be laid before the Legislature of that State.

Approved February 23, 1839.

RESOLUTIONS upon the subject of the Culture of Silk, &c., in the State of Kentucky:

WHEREAS, the soil of Kentucky is known to be favorable to the growing of the mulberry tree, and the culture of the sugar beet, and the climate peculiarly suitable to the raising of the silk worm, and the production of silk: and, whereas, the introduction of those branches of industry into this Commonwealth, would be highly beneficial to all classes of society, and especially so to those of small fortunes, because of the small capitals, and small quantities of land required to engage in the business—therefore,

Resolved by the General Assembly of the Commonwealth of Kentucky, That the Governor be requested to procure such books, pamphlets, and printed documents, on the foregoing subjects, for the use of the Legislature, as will aid its judgment in the adoption of such measures as may induce the people of Kentucky to engage in those branches of domestic industry.

Resolved, That the Governor be requested to open a correspondence with the Governors of other States, to ascertain what Legislative encouragement has been given to the foregoing branches of industry, and the effect of such encouragement; and to enquire whether capital and labor thus employed has been profitable or otherwise, and to procure any other information on those subjects, which he may deem useful to the Legislature or people of Kentucky.

Approved February 23, 1839.

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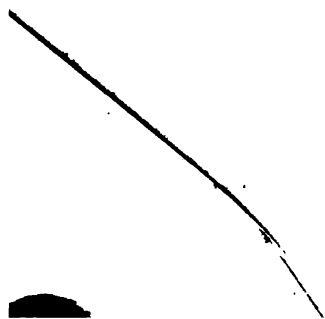
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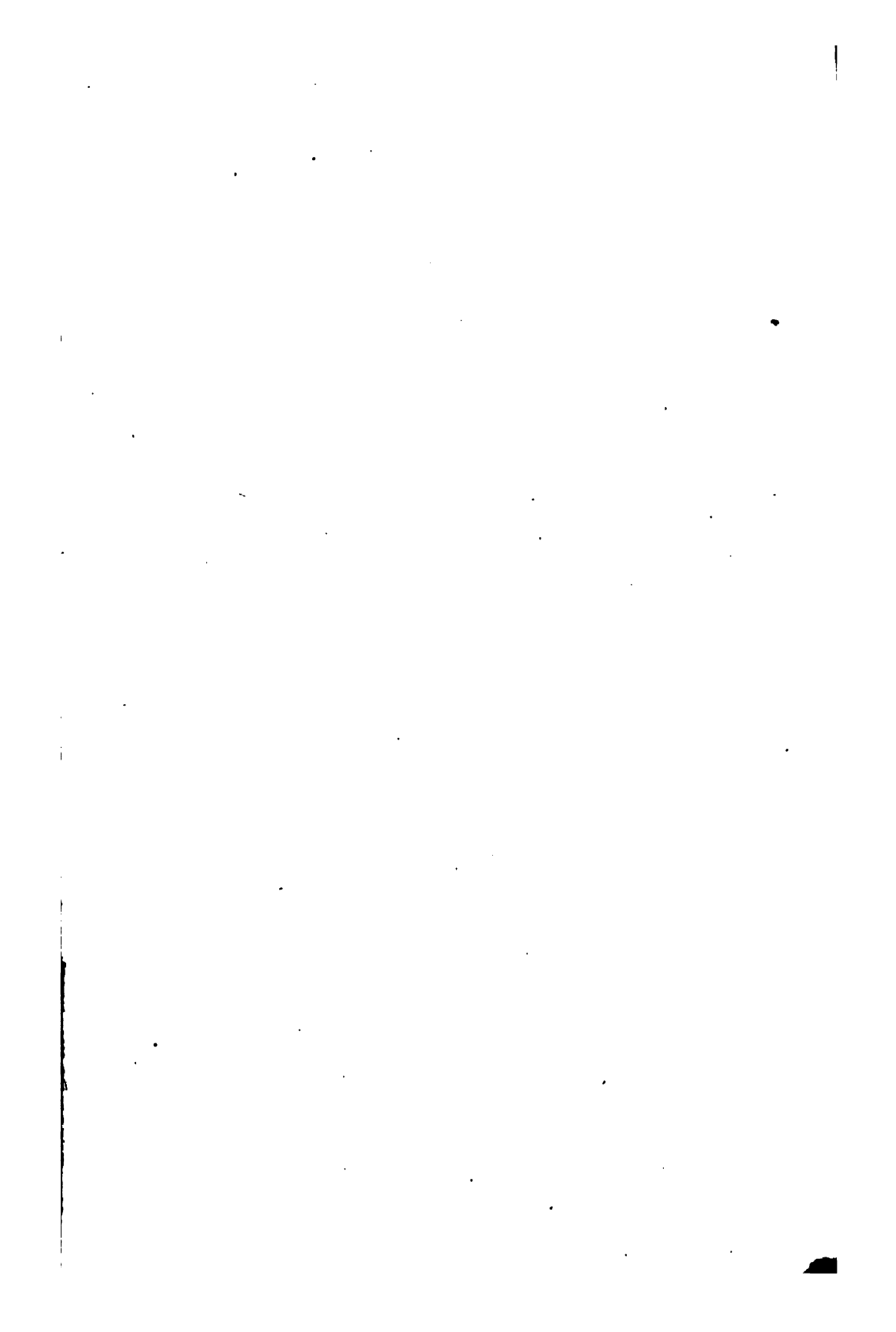
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